

# **United States Bankruptcy Court Eastern District of Missouri**

Dana C. McWay  
Clerk of Court



## **LOCAL RULES OF BANKRUPTCY PROCEDURE**

(as revised effective December 1, 2013)

Adopted by:

Honorable Kathy A. Surratt-States, Chief Judge  
Honorable Barry S. Schermer,  
Honorable Charles E. Rendlen, III

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**United States Bankruptcy Court  
Eastern District of Missouri**

**LOCAL RULES OF BANKRUPTCY PROCEDURE**

**INTRODUCTION - SCOPE OF RULES**

**L.R. 1001 - Scope of Rules and Forms; Short Title.**

- A. **Title and Citation.** These Rules are adopted pursuant to Rule 9029 of the Federal Rules of Bankruptcy Procedure to govern the local practice and procedures before the United States Bankruptcy Court for the Eastern District of Missouri (the “Court”). These Rules shall be known as the “Local Rules of the Bankruptcy Court for the Eastern District of Missouri” (the “Rules”) and shall be cited as “L.R. \_\_\_\_\_” herein. These Rules may be amended or supplemented from time to time by additional orders as the Court deems necessary. Any amendments or supplements to these Rules will be contained either in the Court’s procedures manual (“Procedures Manual”) described in L.R. 1001(E), or in a separate General Order. All references to provisions of the Bankruptcy Code are to Title 11 of the United States Code. All references to the District Court are to the United States District Court for the Eastern District of Missouri.
- B. **Application.** These Rules shall apply to all cases and proceedings in the United States Bankruptcy Court for the Eastern District of Missouri except to the extent the Court determines application of the Rules would not be feasible or as otherwise more specifically provided herein. Failure to comply with these Rules may result in denial of relief requested, dismissal, or other sanctions. Should any provision of the Court’s Procedures Manual conflict with the Rules, the Rules will control, L.R. 1001(E) notwithstanding.
- C. **Effective Date.** These Rules become effective on December 1, 2013. These Rules supersede all previous rules and any conflicting Orders promulgated by this Court or by any Judge of the Court. The Rules governing plan contents shall be the rules in effect at the time the plan was originally filed. For previous versions of the Rules, go to the Archives section of the Court’s web site [here](#), or contact the Court.
- D. **District Court Rules.** The Local Rules of the United States District Court for the Eastern District of Missouri shall apply in cases and proceedings in the Bankruptcy Court only to the extent the District Court Rules are specifically incorporated into these Rules. Rule 9.01 of the United States District Court for the Eastern District of Missouri governing bankruptcy matters is incorporated herein.
- E. **Procedures Manual.** The Clerk of Court will publish operating procedures for this Court in a Procedures Manual. The Procedures Manual will contain procedures, guidelines and instructions incidental to these Rules. The Procedures Manual will be appended to these Rules and will be maintained on the Court’s web site at <http://www.moeb.uscourts.gov/rules.htm>. Reference in

**L.R. 1002**

these Rules to any form, guideline or instruction in the Procedures Manual shall refer to the then-applicable form, guideline or instruction maintained by the Clerk of Court. All parties before the Court shall follow the procedures, guidelines, and instructions set forth in the Procedures Manual and may be sanctioned for failing to do so. If, for some reason, a party is unable to comply with any provision of the Procedures Manual, that party shall contact the Clerk of Court's Office for guidance on how to proceed before filing. The method of computing time set forth in Fed. R. Bankr. P. 9006(a) applies to these Rules and the Procedures Manual.

- F. **Definitions.** When these Rules require notice to or service upon the "debtor," "creditor," or other named party, service shall be made upon the attorney for such party, if any, unless service on the party is specifically required by these or other applicable statutes or rules. Any reference to the "debtor" shall include any co-debtors, unless otherwise indicated. All references to the "Trustee" are to the case trustee.
- G. **CM/ECF Event Codes.** There are several references to CM/ECF event codes in these Rules. To the extent the name of the event codes change in CM/ECF, the Clerk of Court may, from time to time, substitute conforming event codes in these Rules as necessary without further order of the Court. The Clerk of Court will issue a public notice to advise of any such change.
- H. **Conforming Changes.** To the extent that the Federal Rules of Bankruptcy Procedure are revised from time to time, the Clerk of Court may revise these Rules to conform to such changes upon order of the Court. The Clerk of Court will issue a public notice to advise of any such revision.

**PART I. COMMENCEMENT OF CASE; PROCEEDINGS RELATED TO PETITION AND ORDER FOR RELIEF**

**L.R. 1002 - Case Commencement.**

- A. **Declination of Filing.** The Clerk of Court shall decline to accept for filing, and the Court shall promptly dismiss any case if:
1. the petition is not signed by the debtor;
  2. the petition is not accompanied by a matrix and verification pursuant to L.R. 1007-8;
  3. in the case of an individual, the petition is not accompanied by a Credit Counseling Certificate, Exhibit D, a Certification of Exigent Circumstances, or a Motion for Exemption (Bankruptcy Code §§ 109(h) and 521(b)); or
  4. the filing fee is neither paid nor provided for by an Application to Proceed In Forma Pauperis or an Application to Pay Filing Fee in Installments or through the Chapter 13 plan, as applicable.
- B. **Chapter 7 Cases**  
The following documents are required to be filed to commence a Chapter 7 case and should be arranged in the following order. All documents listed are due with the petition unless otherwise specified.
1. Voluntary Petition (Official Form B1)

2. Exhibit C to Voluntary Petition (only if yes is marked on the second page of the Voluntary Petition) (due within 7 days)
3. Summary of Schedules (Official Form B6) (due within 14 days)
4. Statistical Summary of Certain Liabilities (Official Form B6 - Summ 2) (individuals only) (due within 14 days)
5. Schedules A-J (Official Forms B6 A-J) (C, I & J required for individuals only) (due within 14 days)
6. Declaration Concerning Debtor's Schedules (Official Form B6 - Decl) (due within 14 days)
7. Statement of Financial Affairs (Official Form B7) (due within 14 days)
8. Individual Debtor's Statement of Intentions (Official Form B8) (if applicable based on schedules) (due within 14 days)
9. Statement of Corporate Ownership (Fed. R. Bankr. P. 1007(a)(1)) (corporate cases only) (due within 14 days)
10. Social Security Number Verification Form (Official Form B21) (individuals only) (due with petition or show cause hearing)
11. Attorney Compensation Disclosure (Fed. R. Bankr. P. 2016(b)) (due within 7 days)
12. Matrix and Verification of Creditor Matrix (Local Form 2)
13. Credit Counseling Certificate, Exhibit D, Certification of Exigent Circumstances, or Motion for Exemption (Bankruptcy Code §§ 109(h) and 521(b)) (individuals only) (due immediately unless Exhibit D indicates that the Credit Counseling Certificate will be filed within 14 days)
14. Means Test Form/Statement of Current Monthly Income (Official Form 22A) (individuals only) (due within 14 days)
15. Filing Fee, application to pay Filing Fee in Installments, or Application to Proceed In Forma Pauperis. Only individuals may pay in installments or file an Application to Proceed In Forma Pauperis.
16. Non-attorney Preparer Notice (individuals only)
17. Statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition (Bankruptcy Code § 521(a)) (to be included in Item 17 of Schedule I and Item 19 of Schedule J) (individuals only) (due within 14 days)
18. Records of any interest in an educational Individual Retirement Account or state tuition program (to be included in Item 11 of Schedule B and filed separately) (individuals only) (due within 14 days)

**C. Chapter 11 Cases**

The following documents are required to be filed to commence a Chapter 11 case and should be arranged in the following order. All documents listed are due with the petition unless otherwise specified.

1. Voluntary Petition (Official Form B1)
2. Exhibit A to Voluntary Petition (corporate Chapter 11 debtors that are publicly held) (due within 7 days)
3. Exhibit C to Voluntary Petition (only if yes is marked on the second page of the Voluntary Petition) (due within 7 days)



***L.R. 1002 (cont.)***

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4. List of Creditors Holding 20 Largest Unsecured Claims (due within 7 days)
5. Summary of Schedules (Official Form B6) (due within 14 days)
6. Statistical Summary of Certain Liabilities (Official Form B6 - Summ 2) (individuals only) (due within 14 days)
7. Schedules A-J (Official Forms B6 A-J)(C, I & J required for individuals only) (due within 14 days)
8. Declaration Concerning Debtor's Schedules (Official Form B6 - Decl) (due within 14 days)
9. Statement of Financial Affairs (Official Form B7) (due within 14 days)
10. Statement of Corporate Ownership (Fed. R. Bankr. P. 1007(a)(1)) (corporate cases only) (due within 14 days)
11. Social Security Number Verification Form (Official Form B21) (individual cases only) (due with petition or show cause hearing)
12. Attorney Compensation Disclosure (Fed. R. Bankr. P. 2016(b)) (due within 7 days)
13. Matrix and Verification of Creditor Matrix (Local Form 2)
14. Credit Counseling Certificate, Exhibit D, Certification of Exigent Circumstances, or Motion for Exemption (Bankruptcy Code §§ 109(h) and 521(b)) (individuals only) (due immediately unless Exhibit D indicates that the Credit Counseling Certificate will be filed within 14 days)
15. Statement of Current Monthly Income (Official Form 22B) (individual cases only) (due within 14 days)
16. Filing Fee or Application to Pay Filing Fee in Installments. Only individuals may pay in installments.
17. Non-attorney Preparer Notice (individuals only)
18. Statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition (Bankruptcy Code § 521(a)) (to be included in Item 17 of Schedule I and Item 19 of Schedule J) (individuals only) (due within 14 days)
19. Records of any interest in an educational Individual Retirement Account or state tuition program (to be included in Item 11 of Schedule B and filed separately) (individuals only) (due within 14 days)
20. Chapter 11 Small Business Requirements. (Bankruptcy Code § 1116(1)) (due within 7 days)
  - a. Balance Sheet
  - b. Statement of Operations
  - c. Cash-Flow Statement; and
  - d. Federal Income Tax Returns; or
  - e. an affidavit stating that no Balance Sheet, Statement of Operations, and/or Cash Flow Statement has been prepared and/or no Federal tax return has been filed.

**D. Chapter 12 Cases**

The following documents are required to be filed to commence a Chapter 12 case and should be arranged in the following order. All documents listed are due with the petition unless otherwise specified.

1. Voluntary Petition (Official Form B1)

2. Exhibit C to Voluntary Petition (only if yes is marked on the second page of the Voluntary Petition) (due within 7 days)
3. Summary of Schedules (Official Form B6) (due within 14 days)
4. Schedules A-J (Official Forms B6 A-J)(C, I & J required for individuals only) (due within 14 days)
5. Declaration Concerning Debtor's Schedules (Official Form B6 - Decl) (due within 14 days)
6. Statement of Financial Affairs (Official Form B7) (due within 14 days)
7. Chapter 12 Plan (due within 90 days)
8. Social Security Number Verification Form (Official Form B21) (individuals only) (due with petition or show cause hearing)
9. Attorney Compensation Disclosure (Fed. R. Bankr. P. 2016(b)) (due within 7 days)
10. Matrix and Verification of Creditor Matrix (Local Form 2)
11. Credit Counseling Certificate, Exhibit D, Certification of Exigent Circumstances, or Motion for Exemption (Bankruptcy Code §§ 109(h) and 521(b)) (individuals only) (due immediately unless Exhibit D indicates that the Credit Counseling Certificate will be filed within 14 days)
12. Filing Fee or Application to Pay Filing Fee in Installments. Only individuals may pay in installments.
13. Non-attorney Preparer Notice (individuals only)
14. Statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition (Bankruptcy Code § 521(a)) (to be included in Item 17 of Schedule I and Item 19 of Schedule J) (individuals only) (due within 14 days)
15. Records of any interest in an educational Individual Retirement Account or state tuition program (to be included in Item 11 of Schedule B and filed separately) (individuals only) (due within 14 days)

**E. Chapter 13 Cases**

The following documents are required to be filed to commence a Chapter 13 case and should be arranged in the following order. All documents listed are due with the petition unless otherwise specified.

1. Voluntary Petition (Official Form B1)
2. Exhibit C to Voluntary Petition (only if yes is marked on the second page of the Voluntary Petition) (due within 7 days)
3. Summary of Schedules (Official Form B6) (due within 14 days)
4. Statistical Summary of Certain Liabilities (Official Form B6 - Summ 2) (individuals only) (due within 14 days)
5. Schedules A-J (Official Forms B6 A-J) (due within 14 days)
6. Declaration Concerning Debtor's Schedules (Official Form B6 - Decl) (due within 14 days)
7. Statement of Financial Affairs (Official Form B7) (due within 14 days)
8. Social Security Number Verification Form (Official Form B21) (due with petition or show cause hearing)
9. Chapter 13 Plan (Local Form 13) (due within 14 days)
10. Attorney Compensation Disclosure (Fed. R. Bankr. P. 2016(b)) (due within 7 days)

11. Chapter 13 Attorney Fee Election Form (CM/ECF Virtual Event - no document needs to be uploaded) (due within 14 days)
12. Matrix and Verification of Creditor Matrix (Local Form 2)
13. Credit Counseling Certificate, Exhibit D, Certification of Exigent Circumstances, or Motion for Exemption (Bankruptcy Code §§ 109(h) and 521(b)) (due immediately unless Exhibit D indicates that the Credit Counseling Certificate will be filed within 14 days)
14. Statement of Current Monthly Income and Disposable Income Calculation Form (Official Form 22C) (individual cases only) (due within 14 days)
15. Filing Fee or Application to Pay Filing Fee through the Plan
16. Non-attorney Preparer Notice (individuals only)
17. Statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition (Bankruptcy Code § 521(a)) (to be included in Item 17 of Schedule I and Item 19 of Schedule J) (individuals only) (due within 14 days)
18. Records of any interest in an educational Individual Retirement Account or state tuition program (to be included in Item 11 of Schedule B and filed separately) (individuals only) (due within 14 days)

F. **Filing Fees.** Reference the Court's web site at [http://www.moeb.uscourts.gov/filing\\_fees.htm](http://www.moeb.uscourts.gov/filing_fees.htm) for filing fees required to commence a bankruptcy case.

G. **Order and Notice of Documents Due.** The Court sends an Order and Notice of Documents Due when a petition is filed without all of the required documents or when other filing deficiencies are noted. Failure to cure the deficiency(ies) by filing the missing documents or correcting any other deficiency(ies) stated on the Order and Notice of Documents Due within the time stated therein shall result in the prompt dismissal or reconversion of the case unless a motion to extend time for filing has been granted or is pending. The Court will not condone serial filing of motions to extend time simply for the purpose of staving off dismissal, however.

**L.R. 1006 - Payment of Filing Fees in Installments or Waiver of Filing Fee.**

A. **General Requirements.** All applications to pay filing fees in installments shall be filed using a form in substantial conformity with Local Form 1. No proposed order shall be submitted with the application. Fifty percent of the filing fee shall be due at the time the petition is filed for debtors applying to pay the filing fee in installments. The Court will not grant an application to pay the filing fee in installments if the debtor's attorney has already been paid \$300 or more at the time the petition is filed or the debtor has paid a petition preparer in connection with the case. Any application for a waiver of the filing fee will be denied if the debtor's attorney receives compensation for work performed in connection with the debtor's bankruptcy case or the debtor has paid a petition preparer in connection with the case.

B. **Installment Filing Fees in Chapter 13 Cases.** In Chapter 13 cases, any unpaid filing fee installments shall be paid through the Chapter 13 plan. The appropriate box shall be checked on the Application to Pay Filing Fees in Installments (Local Form 1), and a provision for payment shall be included in the debtor's Chapter 13 plan (Local Form 13).

- C. **Waiver of Filing Fee.** The Court will post on the Court's web site the applicable poverty guidelines to be used in determining whether a debtor qualifies for a fee waiver pursuant to 28 U.S.C. § 1930(f). If an application for In Forma Pauperis (Official Form 3B) is granted, unless otherwise stated, the order granting the application will waive all filing fees in the case. The order granting In Forma Pauperis status may be vacated if developments in the case demonstrate that waiver of fees was unwarranted. If an application for In Forma Pauperis is denied, the debtor will ordinarily be ordered to pay the filing fee in installments pursuant to a payment schedule set out in the Court's order. If the debtor is not eligible to pay fees in installments because outstanding fees remain owing to the Court in a prior case, the debtor will be ordered to pay the full filing fee within 7 days of the order denying the In Forma Pauperis application. Failure to timely pay the filing fee will result in the case being dismissed.

**L.R. 1007-1 - Means Testing and Current Income Calculations**

- A. **Median Family Income.** In determining median family income for purposes of Bankruptcy Code § 707(b)(7) and completion of the Means Test Official Form in Chapter 7 cases, and the Disposable Income Official Form in Chapter 13 cases, absent evidence to the contrary, the median family income shall be those amounts established by the United States Bureau of the Census and made available on the Bankruptcy Court's web site as provided by the Office of the United States Trustee.
- B. **Monthly Expenses.** Absent evidence to the contrary, the monthly expenses for use in determining the means test under Bankruptcy Code § 707(b)(2)(A) and completion of the Means Test Official Form in Chapter 7 cases, and the Disposable Income Official Form in Chapter 13 cases shall be those expenses established by the U.S. Internal Revenue Service and made available through a link on the Bankruptcy Court's web site to this information as provided by the Office of the United States Trustee. The multiplier for calculating the Chapter 13 administrative expense on the Means Test Official Form in Chapter 7 cases, and the Disposable Income Official Form in Chapter 13 cases shall be the percentage on the date the case is filed and made available through a link on the Bankruptcy Court's web site as provided by the Office of the United States Trustee.
- C. **Documentation Supporting Means Test.** The debtor shall bring to the Bankruptcy Code § 341 meeting of creditors ("§ 341 Meeting") documentation supporting expenses claimed on the Means Test Official Form in Chapter 7 cases, and the Disposable Income Official Form in Chapter 13 cases. Such documentation shall not be filed with the Court unless filing is necessary to comply with existing rules and procedures.

**L.R. 1007-2 - Bankruptcy Code § 521(a)(1) Filing Requirements.** The debtor shall not be required to file the documents specified in Bankruptcy Code §§ 521(a)(1)(B)(iv), (v), and (vi), and shall be deemed to have satisfied these Bankruptcy Code § 521(a) filing requirements in the following manner:

- A. **Bankruptcy Code § 521(a)(1)(B)(iv).** The requirements of Bankruptcy Code § 521(a)(1)(B)(iv) (copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition by the debtor from any employer of the debtor) are satisfied by

providing to the Trustee (or the United States Trustee in a Chapter 11 case where no Trustee has been appointed) at least 14 days before the first setting of the § 341 Meeting:

1. Payment advice(s) or other evidence of payment (which may be satisfied by providing less than “all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition ...” - e.g. by providing a year-to-date statement that includes payments received within 60 days of the petition), or
2. A verified statement that the debtor did not receive payments to which Bankruptcy Code § 521(a)(1)(B)(iv) applies.

In no event shall the documents required by Bankruptcy Code § 521(a)(1)(B)(iv) be provided later than 45 days after the date of the filing of the petition. If the § 341 Meeting is not set within 45 days of the filing of the petition, the 45-day deadline for providing payment advices to the Trustee (or the United States Trustee, if applicable) still applies. If the Trustee or the United States Trustee continues the § 341 Meeting to receive these documents, such continuance shall not be deemed a request or consent to extend the deadline of Bankruptcy Code § 521(i). Nothing in this Rule shall be construed as requiring the Trustee or the United States Trustee to continue the § 341 Meeting. Failure to provide the documents within the 45-day deadline shall be grounds for the Trustee or the United States Trustee (if applicable) to request dismissal. If the case is dismissed following such a request by the Trustee or the United States Trustee, and the debtor believes the case was dismissed in error, the debtor shall file any motion to reinstate the case within 14 days of the entry of the dismissal order. A case that has been dismissed for failure to file a required document or provide a required document to the Trustee or the United States Trustee will not be considered to be a case dismissed in error.

- B. **Bankruptcy Code § 521(a)(1)(B)(v).** The requirement of Bankruptcy Code § 521(a)(1)(B)(v) (statement of the amount of monthly net income, itemized to show how the amount is calculated) is satisfied by including such information in Schedule I.
- C. **Bankruptcy Code § 521(a)(1)(B)(vi).** The requirement of § 521(a)(1)(B)(vi) (a statement disclosing any reasonably anticipated increase in income or expenditures over the next 12-month period following the date of the filing of the petition) is satisfied by including such information in item 17 of Schedule I and item 19 of Schedule J.

**L.R. 1007-3 - Statistical Summary Form.** Individual debtors whose debts are primarily consumer debts filing a case under Bankruptcy Code Chapters 7, 11, or 13 shall complete and file the Official Statistical Summary Form. If not filed with the petition, the Court will issue its 14-day Order and Notice of Documents Due. Thereafter, if the Form remains unfiled, the Court will issue a notice to the debtor advising that the case may be closed without entry of discharge. If filed after the voluntary petition, the Form shall be filed using the “Statistical Summary of Certain Liabilities” Miscellaneous Event.

**L.R. 1007-4 - Bankruptcy Code § 521(c) Education Accounts.** The debtor shall file with the petition, and if not with the petition, within 14 days thereafter, records of any interest under Bankruptcy Code § 521(c) by including such information on item 11 of Schedule B and by attaching an Exhibit

Summary to the Schedules or by filing the Exhibit Summary separately using the “Debtor Interest in Education Account” event.

**L.R. 1007-5 - Bankruptcy Code § 521 Tax Returns and Requests.**

- A. **Bankruptcy Code § 521(e)(2) - Tax Returns Filed with the Taxing Authority Pre-Petition.** Unless otherwise requested by the United States Trustee or the Trustee, the debtor shall be deemed to have met the requirement of Bankruptcy Code § 521(e)(2)(A)(i) by providing to the Trustee (or the United States Trustee in a Chapter 11 case where no Trustee has been appointed), no later than 7 days prior to the § 341 Meeting, a copy of the debtor’s most recently filed federal and state tax returns, or a verified statement that such returns do not exist and the reason why the returns do not exist. On request of a creditor under Bankruptcy Code § 521(e)(2)(A)(ii), the debtor shall provide copies of such tax returns to the creditor but shall not file the returns or an Exhibit Summary thereof with the Court. Failure to provide the Trustee (or the United States Trustee if applicable) with the required tax returns or a verified statement that such returns do not exist as set forth in this Rule will result in the Trustee’s or United States Trustee’s request for dismissal of the case. Nothing in this Rule shall be construed as requiring the Trustee or the United States Trustee to continue the § 341 Meeting.
- B. **Bankruptcy Code § 521(f) - Tax Returns Filed with the Taxing Authority Post-Petition.** To file tax returns or transcripts under Bankruptcy Code § 521(f) in the Court’s CM/ECF system in response to a request for such returns, the debtor shall use the “Tax Documents” event. A written request pursuant to Bankruptcy Code § 521(f) shall be filed with the Court using the “Request for Copy of Debtor’s Tax Information” event and shall be served on the debtor and debtor’s counsel, if any.

**L.R. 1007-6 - Credit Counseling.**

- A. **Review by Trustee.** The United States Trustee, or the Trustee, as applicable, shall review any of the documents set out in L.R. 1002(A)(3) that have been filed and file a motion to dismiss the case if the debtor has not met the requirements of Bankruptcy Code § 109(h) to be eligible for bankruptcy relief.
- B. **Certificate of Credit Counseling.** A separate certificate of credit counseling or Exhibit D shall be filed with the petition for each debtor unless a motion for exemption or exigent circumstances is filed. If a single Exhibit D is filed for both debtors in a joint case, the exhibit shall include the names and signatures of both debtors. The certificate of credit counseling or Exhibit D shall be appended to the voluntary petition or may be filed separately. If the certificate of credit counseling is filed separately, the “Certificate of Credit Counseling” event shall be used. If Exhibit D is filed separately, the “Support/Supplement” event shall be used. If Exhibit D to the voluntary petition is filed indicating that counseling was obtained but the certificate is not available, the Court will issue a 14-day Order and Notice of Documents Due and will dismiss the case on the 15<sup>th</sup> day if the certificate of credit counseling is not timely filed.

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- C. **Certificate of Exigent Circumstances.** The certification of exigent circumstances under Bankruptcy Code § 109(h)(3)(A) shall be filed using the “Exigent Circumstances re: Credit Counseling” Miscellaneous Event.
- D. **Exemption.** A motion for exemption under Bankruptcy Code § 109(h)(4) shall be filed using the “Motion for Exemption from Credit Counseling” event.

**L.R. 1007-7 - Extension of Time to File Schedules and Statement of Financial Affairs.**

- A. **General Procedures.** Any request for additional time to file schedules or the statement of financial affairs shall:
  - 1. be filed before expiration of the deadline;
  - 2. seek extension to a date certain for filing the missing documents;
  - 3. disclose the date the petition was filed;
  - 4. disclose the date of the § 341 Meeting;
  - 5. disclose all prior extensions granted; and
  - 6. be submitted simultaneously with a proposed order via Judge’s e-mail as required under L.R. 9050.

The request to extend time shall be served on the Trustee and, in Chapter 11 cases, on the L.R. 9013-3(D) Master Service List or on those who would be on such a list. If the Court extends the time for filing schedules to a date that is less than 10 days before the scheduled § 341 Meeting, the debtor shall contact the Trustee (or the United States Trustee in a Chapter 11 case where no Trustee has been appointed) to verify whether the § 341 Meeting should be rescheduled. If the § 341 Meeting is rescheduled, the debtor shall serve notice of the continued § 341 Meeting date on all creditors and parties in interest as required by L.R. 2003(A) and shall file a certificate of service (L.R. 9004(D)).

- B. **Dismissal for Failure to File Schedules and Statement of Financial Affairs.** In a Chapter 7 or 13 case, if the schedules or statement of financial affairs or a request for additional time to file the schedules and/or statement of financial affairs are not filed within 14 days of the date the voluntary petition was filed, the case will be dismissed on the 15<sup>th</sup> day after the date the voluntary petition was filed.

**L.R. 1007-8 - Matrix.**

- A. **General Requirements.** The debtor shall file a list containing the name and address of each creditor in the format specified in the Procedures Manual. This list is called the creditor “matrix.” The debtor shall also sign and simultaneously file a verification of creditor matrix (Local Form 2) following the instructions in the Procedures Manual. The matrix and verification shall be filed with the petition pursuant to L.R. 1002(A).
- B. **Matrix to Include Child Support Enforcement Agency.** Any debtor that is subject to a child support claim of a domestic support obligation shall include the address for the appropriate state

child support enforcement agency in the debtor's matrix. Such addresses are available through the web site of the Office of the United States Trustee.

- C. **Missouri Department of Revenue and U.S. Internal Revenue Service.** The Missouri Department of Revenue shall be listed on the matrix in all Chapter 13 cases using the address set forth in the Procedures Manual. The U.S. Internal Revenue Service shall be listed on the matrix in all Chapter 11 cases and in all other cases where the Internal Revenue Service is a creditor using the address set forth in the Procedures Manual.

**L.R. 1009 - Amended Schedules and/or Matrix.**

- A. **Content of Amended Schedule or Matrix.** An amended schedule and/or matrix shall include only the names and addresses that have been newly added, or for which information has changed. Along with the amended schedule and/or matrix, the debtor shall file a signed declaration and/or verification (as applicable) for the amended schedule and/or matrix. Along with any amended schedule and/or matrix, the debtor shall file a memorandum identifying the changes made by the amendment. If adding a creditor or creditors in a Chapter 7 case, the notice of amendment to schedules to add creditor(s) (Local Form 26) shall be filed. To delete a creditor or creditors, file the appropriate amended schedule displaying the creditor's(s') name and the words "DELETE CREDITOR" along with a memorandum identifying the reason for the change(s). The memorandum shall list the name(s) of the creditor(s) affected by the amendment and a description of the applicable change(s).
- B. **Service.** The debtor shall serve a notice of the amended schedule and/or a notice of the amended matrix on the Trustee. A copy of the last issued notice of commencement of case shall be served with the notice along with a proof of claim form and notice of the claims bar date on any newly added creditor in any asset case. In Chapter 13 cases, the debtor shall also serve a copy of the current Chapter 13 plan on every newly added creditor included in the amended document. The debtor shall file a certificate of service listing the documents served in full compliance with L.R. 9004(D). The debtor shall serve a copy of the amended schedules and/or matrix and any accompanying memorandum on any party requesting a copy of these documents.
- C. **Large Chapter 11 Cases.** In any large Chapter 11 case, or a Chapter 7 case that has been converted from a Chapter 11 case, in which the Court authorizes the debtor or a noticing agent to provide notice and maintain the creditor matrix, the following procedures shall apply to amended matrices:
1. When the matrix needs to be amended or corrected, the debtor shall file in PDF the amended or corrected matrix in the CM/ECF system. The debtor shall not upload this amended matrix into the CM/ECF system. The filed (not uploaded) amended matrix shall include all names and addresses comprising the most current list of the debtor's creditors.
  2. To file the amended or corrected matrix, the debtor shall use the "Amended Creditor Matrix" event.
  3. On conversion of a Chapter 11 case or within 7 days of any request from the Court or any other party, the debtor shall file in PDF and upload (as a text file) an amended matrix as set forth in these Rules.



- D. **Form Notice in Chapter 7 Individual Cases.** In Chapter 7 individual cases, the Debtor shall file and serve the mandatory “Notice of Amendment to Schedules to Add Creditor(s)” (Local Form 26) on all creditors added to the case by an amended schedule. The notice shall either be filed with the amended schedules using the “Amended Schedules” event or separately using the “Notice of Amendment to Schedules to Add Creditor(s)” event. The additional documents referenced in the notice shall not be filed with the Court.
- E. **Extension of Deadline for Objection to Discharge.** The deadline to object to a debtor’s discharge or the dischargeability of a debt will be extended by 60 days from the date of the amended schedules and/or matrix only for newly added creditors.

**L.R. 1015 - Joint Administration and Affiliated Debtor Cases.**

- A. **Joint Cases.** The estates under a joint petition filed pursuant to Bankruptcy Code § 302(a) will be jointly administered unless otherwise ordered by the Court.
- B. **Affiliated Debtor Cases in Chapter 11.** The debtor or a party in interest may request by motion that cases in this Court regarding a debtor and its affiliate(s) be jointly administered. A motion for joint administration shall be filed as early in the case as possible. Unnecessary delay may result in the Court’s denial of the motion for joint administration. Such a motion shall be served on the L.R. 9013-3(D) Master Service List or on those who would be on such a list. The motion for joint administration shall be filed in the case requested to be designated as the lead case. Joint administration of a debtor and its affiliates, unless otherwise ordered by the Court, shall not be a substantive consolidation of the cases.
1. **Designation of Lead Case.** Unless otherwise stated in the order granting joint administration, when multiple affiliated cases are filed, the first case filed (i.e. the case having the lowest case number) shall be designated as the lead case.
  2. **Docket.** A single case docket and case file shall be maintained in the lead case after entry of the order for joint administration.
  3. **Style of Court Documents.** Pleadings and other documents filed after entry of the order for joint administration shall be styled with the caption of the lead case and shall indicate that the cases are being jointly administered. The caption for a pleading or other document filed in a jointly administered case shall follow the designated example in Local Form 22. Such documents shall be filed in the lead case only.
  4. **Claims.** A separate claims register shall be maintained for each affiliated case. A proof of claim shall specifically state the name and case number of the debtor against which the claim is asserted. If claims are asserted against more than one of the affiliated debtors in a jointly administered case, a separate original proof of claim shall be filed in each case.

**L.R. 1016 - Death of Debtor.** A suggestion of death must be accompanied either by a copy of the death certificate, a copy of some other government-issued document evidencing the death, or a brief explanation

of why neither of these can be obtained. The suggestion of death shall include a statement of any relief sought in connection therewith.

**L.R. 1017-1 - Motions to Dismiss.**

- A. **General.** All motions to dismiss a bankruptcy case shall state whether the case has been converted and other relevant facts in support of the motion, including whether the debtor has entered into an agreement with a creditor or with the Trustee that is a basis for the motion to dismiss. In Chapter 7, 11, and 12 cases, the movant shall give notice of the motion to all creditors and parties in interest. Negative Notice procedures as set forth in L.R. 9061 apply to motions to dismiss except as otherwise stated in this Rule.
- B. **Motions to Dismiss for Failure to Provide or File Required Documents.** Pursuant to Bankruptcy Code § 105(a), the Court may promptly dismiss a bankruptcy case for failure to timely provide or file the documents required under Bankruptcy Code § 521 or these Rules. In Chapter 12 and Chapter 13 cases, the Court may also dismiss the case for failure to file a Chapter 12 or 13 plan when due.
- C. **Motions to Dismiss for Failure to Appear at § 341 Meeting.** The Trustee (or the United States Trustee in a Chapter 11 case where no Trustee has been appointed) shall file a request to have the case dismissed if the debtor fails to appear at a rescheduled § 341 Meeting without being excused by the Trustee or the United States Trustee, provided the Trustee or United States Trustee has notified the debtor in writing that failure to appear may result in the case being dismissed. On receipt of the Trustee's Bankruptcy Code § 341 minute entry or other document requesting dismissal, the Court may dismiss the case without further notice and the debtor shall be barred from filing another bankruptcy case for the 180-day period following the order of dismissal.
- D. **Dismissal in Chapter 13 Cases - General Provisions.** In Chapter 13 cases, the debtor's voluntary motion to dismiss shall be served on the Trustee, and the Court will promptly dismiss the case after the motion has been filed. All other motions to dismiss a Chapter 13 case shall be served on the debtor, the debtor's attorney (if any), and the Trustee. Motions to dismiss made by parties other than the debtor in Chapter 13 cases shall be heard on Negative Notice. The debtor shall have 21 days from the date of service of a motion to dismiss a Chapter 13 case to file a response to such motion. If a response is filed, the movant shall provide 14 days notice of hearing. If no response is filed, a Certification and Dismissal Request can be filed, and the motion may be granted without further notice or hearing.
- E. **Amended Plan or Other Responses to the Chapter 13 Trustee's Motion to Dismiss for Failure to Make Plan Payments.** To avoid dismissal on the Trustee's motion to dismiss for failure to make plan payments, the debtor shall become current in plan payments to the Trustee. The debtor may become current by performing one of the following:
1. making payment to the Trustee;
  2. entering into a stipulation with the Trustee if the motion to dismiss is the first such motion. The stipulation shall propose extra monthly payments to cure the missed payments within

- 12 months and the extra payments shall not exceed 25% of the regular monthly payment;  
or
3. filing an amended plan which cures the missed payments. Any amended plan shall follow the procedures for Chapter 13 plans outlined in these Rules and contain terms that address the missed payments as well as future plan payments.

F. **Amended Plans in Response to Chapter 13 Trustee's Motion to Dismiss for Lack of Feasibility.** If the debtor responds to the Trustee's motion to dismiss for lack of feasibility by submitting an amended plan that only differs from the confirmed plan in that it increases the number of future payments to the Trustee and does not waive any missed payments, the plan may be confirmed on recommendation of the Trustee without the debtor following the procedures of L.R. 3015-5.

**L.R. 1017-2 - Motions to Reinstate Following Dismissal for Failure to File or Provide Required Documents or Attend § 341 Meeting.**

- A. **Time and Content.** A debtor shall have 14 days after entry of an order of dismissal to file a motion to reinstate and set aside dismissal. The motion shall state good cause for reinstatement. A case will not ordinarily be reinstated if dismissed for failure to make an installment filing fee payment, attend the § 341 Meeting or timely file or provide documents required by Bankruptcy Code § 521. A motion to set aside an order of dismissal shall contain:
1. the date the deficiency or problem which caused the dismissal was cured;
  2. the date the filing fees were paid in full (not just the missed installment) if dismissed for a missed installment payment;
  3. the date any missing document was filed or provided if dismissed for failure to file or provide such document;
  4. the exceptional circumstances warranting reinstatement of the case; and
  5. a list of all bankruptcy cases filed by the debtor within the last eight years or a statement that the debtor has not filed a bankruptcy case within the prior eight years.
- B. **Hearing, Service, Order.** Unless the Court grants a request for hearing, the Court will consider a motion to reinstate under this Rule without hearing. The debtor shall serve the motion on the Trustee and, in Chapter 11 cases, on the United States Trustee. The Court shall prepare the order granting or denying a motion to reinstate and shall send a copy of the order to all entities on the matrix. On reinstatement of the case, it is incumbent on the movant to set for hearing any unresolved motion pending at the time of dismissal, although any party may set any such motion for hearing with proper notice.
- C. **Effect of Reinstatement on Deadlines.** If a case is dismissed and reinstated, the Court will determine whether the deadlines to object to the debtor's discharge and/or the dischargeability of a debt need to be extended. The Court will send notice of any such deadline extension to all creditors and parties in interest. If there is no such deadline extension explicitly decreed in the Court's Order of reinstatement, the deadlines are not extended. The motion to reinstate shall be the debtor's request to extend these deadlines.

**L.R. 1017-3 - Motions to Reinstate Following Dismissal on Trustee's Motion to Dismiss for Failure to Make Plan Payments.**

- A. **Time, Content, and Service.** A Chapter 13 debtor shall have 14 days after entry of an order granting the Trustee's motion to dismiss for failure to make plan payments in which to file a motion to reinstate and set aside dismissal and to pay funds to the Trustee to bring payments current as of the date of the debtor's motion. The motion shall state whether the case was previously dismissed and reinstated and shall provide dates of any prior dismissals and orders of reinstatement. The motion shall also recite that the debtor has paid funds to the Trustee to bring payments current as of the date of the debtor's motion. The debtor shall serve a copy of its motion on the Trustee, all creditors and parties in interest who have filed a proof of claim, and all entities that have filed a request for notice. No later than 14 days after service of the motion, the Trustee shall file a response to the motion, stating whether the Trustee consents or opposes reinstatement. Upon submission of the Trustee's consent, the case may be reinstated without hearing. Absent a compelling reason, the Court will enter an order without hearing after receipt of the Trustee's response.
- B. **Order Regarding Reinstatement.** The Court shall prepare the order granting or denying a motion to reinstate and shall send a copy of the order to all entities on the matrix. Upon reinstatement of the case, it is incumbent upon the movant to set for hearing any unresolved motion pending at the time of dismissal, although any party may set any such motion for hearing with proper notice.

**L.R. 1019 - Conversions.**

- A. **General Filing Requirements in a Converted Case.** No later than 7 days after entry of the order of conversion, if a case is converted from Chapter 11, 12, or 13, the debtor shall file a new matrix that shall include any creditors holding post-petition claims, and a matrix verification.
1. **Individual Debtors.** No later than 14 days after entry of the order of conversion of a case from Chapter 11, 12 or 13, an individual debtor shall file new schedules and a statement of financial affairs. The new schedules shall be filed in lieu of filing the schedule of post-petition liabilities specified in Fed. R. Bankr. P. 1019(5), and shall include post-petition liabilities and the date(s) the debts were incurred. In a case converted to Chapter 13, the debtor shall file a Chapter 13 plan no later than 14 days after entry of the order of conversion.
  2. **Debtors that are not Individuals.** A debtor that is not an individual and that is converting to Chapter 7 is not required to file new schedules and a statement of financial affairs but such debtor (or trustee, if one has been appointed in a Chapter 11 case) shall file the schedule of unpaid debts and final report and account pursuant to Fed. R. Bankr. P. 1019(5) within the time frames set forth therein. Such schedule and report shall include (1) each item of property acquired after the filing of the petition and remaining in the estate at the time of conversion, (2) each debt remaining unpaid that was incurred after the filing of the petition, and (3) all executory contracts into which the debtor has entered after the filing of the petition.
- B. **Deadline to File Means Test/Statement of Current Monthly Income Forms upon Conversion of Case.** When an individual debtor seeks to convert a case filed on or after October 17, 2005 to a case under Chapter 7, 11 or 13, the debtor shall attach the appropriate Official Form 22A, B, or

**L.R. 1030**

C to be used for the Statement of Current Monthly Income referred to in Fed. R. Bankr. P. 1007(b)(4), (5), and (6) to the debtor's motion or notice to convert. If not attached to the motion or notice, the appropriate Form 22 shall be filed simultaneously with the motion or notice to convert using the appropriate "Means Test or Statement of Current Monthly Income" event. Failure to promptly file the Form for the converted case may result in denial of the motion to convert, or dismissal or reconversion of the case. The information provided on the Form 22 filed for the converted case shall reflect average monthly income for the six calendar months prior to the filing of the original bankruptcy petition. The debtor does not need to complete and file Official Form 22A if the debtor has previously completed and filed Official Form 22A prior to conversion from Chapter 7 to another chapter.

- C. **Reconversion of Certain Chapter 13 Cases.** The Court ordinarily will reconvert a case converted from Chapter 7 to Chapter 13, rather than dismiss the case if the debtor fails to:
1. file the documents required by L.R. 1019(A) or as required in the order of conversion;
  2. attend the § 341 Meeting;
  3. propose a plan in good faith; or
  4. timely commence plan payments.
- D. **Initial Debtor Interview upon Conversion to Chapter 11.** Promptly upon conversion of a case to Chapter 11, the debtor (if not represented by an attorney) or the debtor's attorney (if any) shall contact the Office of the United States Trustee to schedule the § 341 Meeting, and arrange for an initial debtor interview. The debtor and the debtor's attorney (if any) shall review the United States Trustee's requirements and role in administering a Chapter 11 case found in the Procedures Manual.

**L.R. 1030 - Requests for Documents.** Except as otherwise specifically provided in any of these Rules, when a party requests a document from another party, any such request shall initially be in writing, made either by letter or e-mail, and shall not be filed with the Court. Failure to comply with the request within 14 days of the request shall be grounds for the requesting party to file a motion to compel or seek other remedy(ies) from the Court, including dismissal. To comply with the request, the party shall provide the documents to the requesting party but shall not file the documents or an Exhibit Summary concerning the documents with the Court. Nothing precludes the use of current Motion to Compel practices as otherwise authorized and permitted.

**L.R. 1040 - Access to Filed Tax Documents.**

- A. **General Provisions.** For the United States Trustee, the Trustee, or a party in interest to gain access to tax returns or transcripts filed with the Court, such party shall file a motion with the Court using the "Motion for Access to Tax Information" event and shall serve the motion on the debtor and the debtor's attorney, if any. The motion shall include
1. A description of the movant's status in the case;
  2. A description of the specific tax information sought;
  3. A statement indicating the information cannot be obtained by the movant from any other source; and
  4. A statement showing a demonstrated need for the tax information.

If the Court grants access to the tax returns or transcripts filed with the Court, the movant shall keep the tax returns and transcripts confidential and is prohibited from unauthorized dissemination of those documents or the information contained therein.

- B. **Disposition of Tax Documents.** On conclusion of review of any tax returns or transcripts by the United States Trustee, the Trustee, any creditor, or party in interest, such party shall either return the tax returns or transcripts and any copies thereof to the debtor, or destroy the tax returns or transcripts and any copies thereof.

## **PART II. ADMINISTRATION AND NOTICE**

### **L.R. 2002-1 - Address for Service.**

- A. **Address for Service.** The debtor shall use for the matrix the last address for correspondence that the creditor has provided to the debtor unless the debtor is aware that the creditor has specifically directed use of a different address. If the creditor has not provided the debtor with an address for correspondence, the debtor shall use the last billing address provided by the creditor unless the debtor is aware that the creditor has specifically directed use of a different address. The address listed on the matrix shall be used for service of all motions, applications, pleadings, orders, and notices of hearing unless an entity has directed use of another address, or as otherwise may be required, such as for pleadings requiring service on an entity's registered agent. Any entity who has filed an entry of appearance, a request for notice, or a proof of claim or interest shall be deemed to have directed that the address on the entry, request, or proof of claim or interest last filed be used for service of all motions, applications, pleadings, orders, and notices of hearing. Unless service on both the party and the party's attorney is required, service under this Rule on the party shall be made by serving the party's attorney.
- B. **Internal Revenue Service and Missouri Department of Revenue.** Refer to the Procedures Manual for the addresses to be used for service on the United States Internal Revenue Service and the Missouri Department of Revenue.
- C. **Service on Registered Agent.** Parties, or their attorneys, if any, shall refer to the Procedures Manual for the web address of the Missouri Secretary of State where registered agents can be located and use that web address to locate the appropriate registered agent when service on a party's registered agent is required.

### **L.R. 2002-2 - Notice of Commencement of Case and § 341 Meeting.**

- A. **Service and Form of Notice.** The Court will send all notices of commencement of case but is authorized to designate the debtor, Trustee, or other party to provide notice where the interests of justice and efficiency are served. The Clerk of Court is authorized to review the form of all such notices to ensure compliance with the Court's procedures and applicable rules. The notices of commencement for jointly administered cases may be combined into a single notice.
- B. **Child Support Claimants.** The Trustee is not obligated to send notice under Bankruptcy Code §§ 704(c)(1)(A), (B) and (C), 1202(b)(6), or 1302(b)(6) unless a creditor holding a claim for unpaid pre-petition child support contacts the Trustee to request such notice. The duties of the Trustee under these sections shall be met if the Trustee provides the notice specified in those

sections upon request. The Notice and Order of Commencement and the Discharge Order shall contain the following language to give notice to such pre-petition child support creditors.

*The holder of any claim for unpaid pre-petition child support is entitled to have the Trustee provide such creditor with notice of the creditor's right to use the services of the state child support enforcement agency and supply such creditor with the address and telephone number of the state child support enforcement agency and an explanation of the creditor's rights to payment in the bankruptcy case. Any creditor may request such notice and information by writing the Trustee. Such creditor is further entitled to have the Trustee provide the creditor with (i) notice of the granting of the discharge, (ii) any last known address of the debtor, (iii) the debtor's most recent employer, and (iv) information concerning other claims on which the debtor may be liable following the discharge. Failure to request such information from the Trustee shall be a waiver of the right to receive such notice from the Trustee.*

**L.R. 2002-3 - Returned Notices.** All notices sent out from the Court through the Bankruptcy Noticing Center that are undeliverable for insufficient or incorrect address will be returned to the debtor's attorney or to the debtor if unrepresented by an attorney. The debtor shall attempt to locate a correct address for any entity whose notice was returned. The debtor shall send any returned notice to such entity at the corrected address. The debtor shall also amend the matrix under L.R. 1009 (or L.R. 9060(D) if applicable). The debtor shall file a certificate of service listing:

1. the name and corrected address of all entities to whom notice was re-sent; and
2. the name and address of all parties whose notices were returned and for whom the debtor was unable to locate a corrected address.

**L.R. 2003 - § 341 Meetings.**

- A. **Requests to Continue or Reschedule the § 341 Meeting, Notice of Re-setting, and Extension.** If the debtor or the debtor's attorney knows in advance of the § 341 Meeting that the debtor or attorney cannot attend the § 341 Meeting as scheduled, the debtor's attorney (or the debtor if not represented by an attorney) shall contact the Trustee (or the United States Trustee in a Chapter 11 case where no Trustee has been appointed) as far in advance of the § 341 Meeting as possible to request a continued hearing date. If continued, the debtor's attorney (or the debtor if not represented by an attorney) shall:
1. prepare and file a notice of the continued § 341 Meeting;
  2. serve notice of the continued § 341 Meeting date on the Trustee and on all creditors and parties in interest and, in Chapter 11 cases, on the United States Trustee; and
  3. file a certificate of service with the Court.
  4. In Chapter 13 cases, the debtor's attorney (or the debtor if pro se) shall also obtain a continued confirmation hearing date from the Courtroom Deputy and include the continued confirmation date in the notice of the continued § 341 Meeting mailed to all creditors and parties in interest.
- B. **Continuance of the § 341 Meeting Announced at Meeting.** The Trustee or the United States Trustee may continue a § 341 Meeting from time to time by announcement at the § 341 Meeting. The Trustee or the United States Trustee shall list the continued date, time, and location for the

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continued meeting by making a docket entry using the Court's CM/ECF system. No further notice of the continued date shall be required except as stated in L.R. 2003(C).

- C. **Failure to Attend the § 341 Meeting.** If the debtor, without being excused, fails to attend the first scheduled § 341 Meeting, the Trustee shall list the date, time, and location for a continued § 341 Meeting by making a docket entry within the Court's CM/ECF system. The Trustee shall serve written notice of the date, time, and location for the continued § 341 Meeting on the debtor and the debtor's attorney (if any). The Trustee shall either file a copy of the notice with the Court or retain a copy of the notice in the Trustee's files for at least 6 months after the case is closed. If the debtor fails to appear at the second § 341 Meeting without being excused, the Trustee shall file a request asking that the case be dismissed.
- D. **Required Documents at the § 341 Meeting.** If the schedules and statements (and plan in a Chapter 13 case) are filed within 10 days of the scheduled § 341 Meeting, the debtor shall contact the Trustee (or the United States Trustee in a Chapter 11 case where no Trustee has been appointed) to verify whether a new § 341 Meeting date will be required and, if so, the debtor shall fully comply with L.R. 2003(A). The debtor shall bring the documentation specified in the Procedures Manual to the § 341 Meeting.
- E. **Waiver of Attendance.** A request by a debtor to be excused from attendance at the meeting of creditors shall be made in writing to the Office of the United States Trustee and copied to the Trustee, if any. The procedure for requesting a waiver of attendance at the § 341 meeting and the United States Trustee's acceptable grounds for waiver are set forth in the Procedures Manual.

**L.R. 2004 - Motion for Examination under Fed. R. Bankr. P. 2004.**

- A. **Parties to Confer.** Except for cause shown in the motion, prior to filing any motion for an examination under Fed. R. Bankr. P. 2004, the party seeking the examination shall contact the individual or entity to be examined to attempt to reach agreement about the date, time, and place for the examination. If the individual or entity is represented by an attorney, and this is known to the party seeking the examination, the party seeking the examination shall contact the individual or entity's attorney rather than directly contacting the individual or entity.
- B. **Consent Fed. R. Bankr. P. 2004 Motions.** A motion for examination under Fed. R. Bankr. P. 2004 which certifies that the parties have agreed to the specific arrangements described in the motion will be granted without hearing. At the time the motion is filed, the movant shall submit, via the Judge's e-mail, a proposed order to the Court which contains the name of the person or entity to be examined, the date, time, and place of the examination, and a description of any documents to be produced if there has been agreement on production of documents.
- C. **Contested Fed. R. Bankr. P. 2004 Motions.** If the parties are unable to agree to the taking of a proposed Fed. R. Bankr. P. 2004 examination, the motion seeking the examination shall state:
  - 1. the need for the examination and the nature of the dispute;
  - 2. a proposed time, date, and place of the examination;
  - 3. a list of any documents to be produced; and



#### ***L.R. 2014***

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4. the efforts that were made to reach an agreement regarding the examination. A proposed order granting the motion shall be submitted by Judge's e-mail at the time the motion is filed. The proposed order shall specify the name of the person or entity to be examined, the date, time, and place of the examination and any documents to be produced. The movant shall provide a copy of the Fed. R. Bankr. P. 2004 motion and proposed order to the attorney for the person or entity to be examined, or to the person or entity if not represented by an attorney, to the Trustee, and, in Chapter 11 cases, to the United States Trustee. Any objection to the motion shall be filed no later than 7 days after service of the motion.

#### **L.R. 2014 - Employment of Professionals.**

- A. **General Requirements.** Except for employment of an attorney for the debtor in Chapter 13 cases, an application for employment of attorneys, accountants, appraisers, auctioneers, agents or other professionals pursuant to Bankruptcy Code §§ 327 or 1103 shall meet the requirements of Fed. R. Bankr. P. 2014. Such application shall disclose any pre-petition retainer arrangement as required in L.R. 2016-1(A). Applications for employment shall be served on all entities filing a request for notice, other counsel of record, the Trustee, the United States Trustee, and any committees. The application will ordinarily be considered without hearing under L.R. 9062. Any objection to the application shall be filed immediately.
- B. **Employment of Counsel for Debtors in Chapter 13 Cases.** Procedures governing employment, compensation, and specific duties of counsel for debtors in Chapter 13 cases are set forth in L.R. 2016-3.

#### **L.R. 2015-1 - Duty of Debtor in Chapter 12 Case.**

- A. **Duties on Commencement of Case.** No later than 7 days after notification of the appointment of the Trustee, the debtor shall tender to the Trustee the sum of five hundred dollars (\$500.00). Failure of the debtor to tender this amount within 7 days after notification of the appointment of the Trustee shall be cause for dismissal of the case. The Trustee may use such funds without prior application for expenses of administering the case, subject to approval of the Trustee's final report.
- B. **Duty to Disclose Disposable Income.** On the first anniversary of confirmation of a Chapter 12 plan and not less frequently than annually thereafter, the debtor shall account to the Trustee for all disposable income as defined in Bankruptcy Code § 1225(b)(2). The debtor shall provide the Trustee with reasonable information, summaries, and documentation evidencing all receipts and disbursements of money and property over the prior year to enable the Trustee to determine whether the debtor has disposable income which should be applied to make plan payments under Bankruptcy Code § 1225(b)(1)(B). Failure to comply with this Rule shall be cause for dismissal or other appropriate action. Nothing in this Rule precludes the Trustee from obtaining an order of Court requiring disclosures more frequently than annually.

#### **L.R. 2015-2 - Duty of Debtor in Chapter 13 Case.**

- A. **Wage Order.** If the debtor in a Chapter 13 case is employed, the Court recommends that the debtor use the Court Wage Order Program to file a virtual motion for Wage Order. This will cause the Court's CM/ECF system to automatically create the wage order. If a motion is filed outside

of the Wage Order Program, a proposed order shall be submitted to the Court simultaneously via the Judge's e-mail. The motion to enter wage order may be filed simultaneously with the bankruptcy petition.

- B. **Disclosure of Material Change in Financial Condition.** The debtor in a Chapter 13 case shall disclose to the Trustee and to the debtor's attorney any material change in the debtor's disposable income during the life of the plan. This duty to disclose is a continuing duty throughout the life of the plan.
- C. **Insurance on Motor Vehicles in Chapter 13 Cases.**
1. **Required Coverage.** The debtor in a Chapter 13 case shall maintain insurance on any motor vehicle on which a lien exists to secure a debt. Absent agreement between the debtor and the lienholder, the debtor shall
    - a. prepay at least three (3) months insurance on the vehicle;
    - b. provide for the collision and comprehensive deductible to be \$500 and provide for the insurance policy to name the lienholder as a loss payee. If the security agreement or other contract requires a deductible lower than \$500, such contract will govern the amount of deductible the debtor is required to maintain during the bankruptcy case.
  2. **Proof of Insurance Coverage.** The debtor in a Chapter 13 case shall provide the lienholder with proof of 3 months prepaid insurance providing full coverage from the date of the bankruptcy petition. If the insurance policy lapses during the pendency of the case, the debtor is required to provide new proof of coverage, which shall include proof of 3 months prepaid insurance. A copy of the policy or the policy declaration sheet and a copy of a receipt or similar payment statement from an insurance agent on company letterhead may be used as proof of coverage if the documents verify the terms of coverage and prepayment of premiums.

**L.R. 2015-3 - Duty of Debtor in Chapter 11 Case.**

- A. **General Requirements.** Refer to the Procedures Manual for general information regarding various obligations of the debtor in a Chapter 11 case.
- B. **Insurance Requirements - Debtor-in-Possession.**
1. **General Requirements.** All debtors in a Chapter 11 case in which no Trustee has been appointed shall:
    - a. insure all estate assets against physical damage and loss with policy limits covering the asset values stated in the debtor's schedules;
    - b. if applicable, maintain liability coverage for the debtor's operations and businesses;
    - c. if applicable, and as appropriate or customary for the debtor's industry, maintain additional types of insurance (workers compensation, products liability, or professional liability); and
    - d. require insurer(s) to notify the United States Trustee of any insurance claims or lapses of coverage.

2. **Proof of Insurance.** Upon request of any party, the Trustee or the United States Trustee, the debtor shall provide proof of insurance, which shall include a certificate of insurance, binder, or other document(s) from the insurance carrier stating amounts, types and period of coverage, and notification of any secured party as loss payee. Failure to provide such proof shall give rise to a presumption that no insurance is in effect.

**L.R. 2016-1 - Compensation of Professionals.**

- A. **Disclosure of Compensation and Pre-petition Retainers.** Pursuant to Bankruptcy Code § 329 and Fed. R. Bankr. P. 2016(b), an attorney representing a debtor in a case under any chapter shall file with the petition a statement disclosing compensation paid or agreed to be paid to such attorney for services in contemplation of or in connection with the case. Counsel shall serve the disclosure on the Trustee and United States Trustee. In Chapter 13 cases, counsel shall serve only the Trustee. Until a case is closed, a supplemental fee disclosure statement shall be filed and served as required in this Rule either no later than 14 days after any payment not previously disclosed in a properly filed Disclosure of Compensation for Attorney for Debtor pursuant to Fed. R. Bankr. P. 2016(b), or no later than 14 days after the agreement for such a payment. Monies received but not subsequently disclosed are subject to disgorgement. Payment of any funds to debtor's counsel and any retainer arrangement shall be included in the application to employ under L.R. 2014(A).

**B. Applications for Compensation.**

1. **Format of Application for Compensation.** Except in certain Chapter 13 cases as governed by L.R. 2016-3(A) (concerning the "Flat Fee Option"), all professionals employed under Bankruptcy Code §§ 327 and 1103 shall file an application for allowance of compensation following the "Guidelines for Compensation" set forth in the Procedures Manual.
2. **Service of Applications for Compensation.** Unless service is limited by Fed. R. Bankr. P. 2002(a)(6) (for limited-amount applications), by Standing Order in a Chapter 11 case, or otherwise, a professional seeking compensation or reimbursement of expenses shall serve either a copy of the application or a summary of the application using Local Form 4 or Local Form 5 on the debtor (if not represented by an attorney), the debtor's attorney (if any), the Trustee, and all creditors and parties in interest. In Chapter 13 cases, a complete copy of the application shall be served on the Trustee. In all other cases, a complete copy of the application shall be served on the Office of the United States Trustee. Local Form 4, "Summary of Application for Compensation," shall be used in any case except Chapter 11. Local Form 5, "Notice of Hearing and Summary of Application for Compensation in Chapter 11 Case," shall be used in Chapter 11 cases. Any summary of the application shall explain how copies of the full application may be obtained by others for review without charge.

**C. Objections to Applications for Compensation.**

1. **In all Cases Except Chapter 11.** In a case under any chapter except Chapter 11, any objection to an application for compensation shall be filed and served no later than 21 days after service of the application. A copy of the objection shall be served on the applicant, the debtor, the debtor's attorney (if any), the Trustee (if any), the Trustee's attorney, and

the United States Trustee. In Chapter 13 cases, the United States Trustee need not be served.

2. **In Chapter 11 Cases.** In Chapter 11 cases, any objection to an application for compensation shall be filed and served no later than 14 days before the hearing on the application. A copy of the objection shall be served on the applicant, the debtor, the debtor's attorney (if any), the Trustee, and the United States Trustee.

**D. Hearings on Applications for Compensation.**

1. **Negative Notice in all Cases Except Chapter 11.** In a case under any chapter except Chapter 11, hearings on applications for compensation will be held on Negative Notice pursuant to L.R. 9061. If an objection is filed, the applicant shall set the application for hearing, providing 21 days notice to the debtor, the debtor's attorney (if any), the Trustee, the United States Trustee (except in Chapter 13 cases), and any entity filing an objection. The Negative Notice of hearing and summary of application may be combined using Local Form 4, "Summary & Notice of Application for Compensation."
2. **Chapter 11 Cases.** In Chapter 11 cases, unless otherwise ordered, the applicant shall immediately set the application for the next scheduled fee hearing and provide no less than 30 days notice to all entities served with the application or summary of the application. The notice of hearing and summary of application may be combined using Local Form 5, "Notice of Hearing and Summary of Application for Compensation in Chapter 11 Case."

**L.R. 2016-2 - Payment of Professional Fees in Chapter 11 Cases.**

- A. **General Requirements in Chapter 11 Cases.** The requirements of L.R. 2016-1 apply in Chapter 11 cases.
- B. **Monthly Bills (Fee Statements) in Chapter 11 Cases.** In Chapter 11 cases, the debtor is authorized to pay 80% of a professional's fees and 100% of the professional's expenses on a monthly basis in accordance with this Rule. To receive compensation on a monthly basis prior to allowance on an interim application, the professional shall prepare a bill or fee statement in compliance with the Court's "Guidelines for Compensation" in the Procedures Manual and shall submit the statement to the L.R. 9013-3(D) Master Service List or to those who would be on such a list. Any objections to the statement shall be submitted to the applicant. If any objections are unresolved after the parties confer, the objecting party shall file the objection with the Court and attach a copy of the fee statement to the objection. The Court will determine whether to set the matter for hearing. All monthly payments of fees and expenses are subject to approval, modification or disgorgement on interim application which may not be filed sooner than every 120 days nor less frequently than every 180 days. In any case that has been pending more than 180 days, no professional shall be permitted to receive payment on a monthly bill or fee statement unless such professional has filed one or more interim fee applications covering all services provided more than 180 days before the date of such monthly bill or fee statement.
- C. **Interim Applications in Chapter 11 Cases.** In Chapter 11 cases, unless otherwise ordered, any professional employed under Bankruptcy Code §§ 327 or 1103 may be paid 80% of the professional's fees and 100% of the professional's expenses approved on an interim application

or applications that may be filed not sooner than every 120 days nor less frequently than every 180 days. Hearings on interim applications shall be scheduled by the applicant on no less than 30 days notice following the procedures of L.R. 2016-1(D).

**L.R. 2016-3 - Employment and Compensation of Debtor's Counsel in Chapter 13 Cases.**

- A. **Fee Election Requirements.** Attorneys for debtors in Chapter 13 cases may receive compensation for professional services and reimbursement of expenses under either a "Flat Fee Option" or a "Fee Application Option" in accordance with these Rules. Attorneys for debtors in Chapter 13 cases shall disclose which fee election option the attorney elects by using the "Attorney Fee Election Form" event. The fee election event shall be completed at the time of the attorney's initial Fed. R. Bankr. P. 2016(b) disclosure.
1. **Flat Fee Option.** Attorneys for debtors in Chapter 13 cases who elect the "Flat Fee Option" shall, without application to the Court, be permitted to be paid attorneys' fees, including expenses, not to exceed \$4,000 for cases filed on or after March 10, 2011 (or \$4,281 if the filing fee is advanced).
  2. **Fee Application Option.** Attorneys for debtors in Chapter 13 cases who elect the "Fee Application Option" shall be permitted to be paid, without application to the Court, an initial fee in an amount not to exceed \$2,300 (or \$2,581 if the filing fee is advanced). All other fees will be allowed to the debtor's attorneys who elect the "Fee Application Option" only on application filed in accordance with L.R. 2016-1(B).
- B. **Service of Applications.** Service shall be in accordance with L.R. 2016-1(B)(2).
- C. **Fees upon Pre-confirmation Case Dismissal.** IF A DEBTOR'S ATTORNEY WISHES TO RECEIVE FEES IN A CASE THAT HAS BEEN DISMISSED PRIOR TO CONFIRMATION OF A CHAPTER 13 PLAN, THE ATTORNEY SHALL, WITHIN 14 DAYS OF THE ENTRY OF THE DISMISSAL ORDER, (1) FILE AN APPLICATION FOR AN ORDER ALLOWING THE FEES AS A BANKRUPTCY CODE § 503(b) EXPENSE, AND (2) OBTAIN AN ORDER DIRECTING THE TRUSTEE TO HOLD FUNDS PENDING RESOLUTION OF THE FEE APPLICATION. If the fee sought, including fees paid prior to filing of the case, does not exceed \$1,100, the attorney may use the Court's Short Form Attorney Fee Application and may file the application as a motion without hearing pursuant to L.R. 9062. If the fee sought, including fees paid prior to filing of the case, exceeds \$1,100, the application shall comply with the form, notice and hearing requirements of L.R. 2016-1.

**L.R. 2016-4 - Payment of Chapter 12 Trustee Fees.** Trustee fees for non-standing Trustees in Chapter 12 cases shall not exceed five percent (5%) of all payments distributed under the plan. This limitation does not apply to requests for reimbursement of expenses. Except for expense reimbursement authorized under L.R. 2015-1(A), or the terms of a confirmed plan which authorize to the contrary, the Trustee shall apply to the Court for allowance of fees and expenses in accordance with the procedures of L.R. 2016-1(B). Such fees and expenses may be paid from: (1) funds held by the Trustee as a result of the deposit of 5% of all plan payments; (2) the deposit of \$500.00 under L.R. 2015-1(A); or (3) as otherwise ordered. Compensation paid to the Trustee

shall not be less than \$5.00 per month from any distribution under the plan during the administration of the plan.

**L.R. 2090 - Attorney Admission.**

A. **General Admission to Practice before the Bankruptcy Court.** The bar of this Court shall consist of any attorney in good standing to practice before the United States District Court for the Eastern District of Missouri. The requirements for attorney admission, standards concerning attorney discipline, law clerks, and law student practice outlined in Rules 12.01-12.05 of the Local Rules of the United States District Court for the Eastern District of Missouri are adopted for this Court. Attorneys are required to read and remain familiar with:

1. these Local Rules and the Procedures Manual;
2. Local Rules of the United States District Court for the Eastern District of Missouri and the accompanying Rules of Disciplinary Enforcement;
3. Local Rules of Procedure for the Bankruptcy Appellate Panel and Eighth Circuit Court of Appeals;
4. Federal Rules of Bankruptcy Procedure;
5. Federal Rules of Civil Procedure;
6. Federal Rules of Evidence; and
7. Federal Rules of Appellate Procedure.

B. **Admission Pro Hac Vice and Local Counsel.**

1. **Motion.** An attorney who is not a member of this Court but is a member in good standing of the bar of the highest court of any state or the District of Columbia may be permitted to appear and file documents in a case before this Court only when admitted pro hac vice pursuant to applicable rules of the United States District Court for the Eastern District of Missouri. The Motion shall be filed using Local Form 7 (with any necessary modifications) and shall be accompanied by the registration fee payable to the United States District Court. If the motion is a paper filing, the movant shall provide a check made payable to "Clerk, U.S. District Court" at the time of filing the motion. The Court will consider such motions without hearing. Counsel shall serve the Motion for Admission Pro Hac Vice on attorneys for the party(ies) involved in the matter for which counsel seeks admission, the Trustee, and, in Chapter 11 cases, the United States Trustee. The Court may deny a pro hac vice motion for any reason, including a disbarment or suspension from any court.
2. **Local Counsel.** The Court encourages visiting attorneys admitted pro hac vice to affiliate with local counsel. Both visiting and local counsel shall be listed on all filings and shall receive service of documents. If local counsel files the Motion for Admission Pro Hac Vice on behalf of a visiting attorney, the motion shall be filed electronically. When such motion is filed, the Clerk of Court's office will contact the CM/ECF filer regarding the method of payment.
3. **Appearance without Pro Hac Vice Admission.** An attorney who is not admitted to this Court may appear without pro hac vice admission for the following purposes: (a) to file a Notice of Appearance and Request for Service; (b) to file a proof of claim; (c) to attend and fully participate in the § 341 Meeting; and/or (d) to file a ballot in a Chapter 11 case.

**L.R. 2091 - Withdrawal of Counsel.**

- A. **General Requirements.** An attorney of record may withdraw from a case, adversary proceeding, or contested matter only by order of Court after service of a motion to withdraw on the client, the Trustee, and all entities having filed a request for notice. In Chapter 11 cases, the attorney shall also serve the motion to withdraw on the United States Trustee and any official committees. The motion shall list all matters pending at the time of the motion to withdraw. The motion may be ruled on without hearing. Where the withdrawing attorney and the incoming attorney are employed by the same firm, a motion and order shall not be necessary. In such a situation, the withdrawing attorney shall file a notice of withdrawal, and the incoming attorney shall file a notice of appearance in that order.
- B. **Chapter 13 Attorneys Fees.** In Chapter 13 cases, the Trustee shall cease payment of attorneys' fees to an attorney who has, by order of the Court, been allowed to withdraw from a case unless the Court orders differently. An attorney entering as counsel for the debtor in a Chapter 13 case may, only within 7 days following the attorney's entry as counsel of record, petition not to be bound by the withdrawing attorney's fee election. Absent such a petition, the new attorney shall be bound by the withdrawing attorney's fee election. The new attorney may not petition the Court not to be bound by the withdrawing attorney's fee election if the withdrawing attorney and the incoming attorney are employed by the same firm.

**L.R. 2092 - Attorney Changes of Address.** Attorneys shall keep their mailing address, e-mail address, and other information current in the Court's CM/ECF system by using the "Utilities" feature in the system and selecting "Maintain Your ECF Account." Failure of an attorney to so maintain the attorney's account may lead to loss of login privileges without notice.

**L.R. 2093 - Professional Conduct and Obligations of Attorneys.**

- A. **Professional Conduct.** The professional conduct of attorneys appearing before this Court shall be governed by the Rules of Professional Conduct adopted by the Supreme Court of Missouri, the Rules of Disciplinary Enforcement of the United States District Court for the Eastern District of Missouri, and these Rules.
- B. **Duty to Confer.** Every attorney appearing before this Court is required to attempt, in good faith, to communicate with opposing counsel in advance of appearing in any trial or hearing in a contested matter in an attempt to reach agreement on the matter.
- C. **Obligations of Attorneys.**
1. With respect to hearings:
    - a. Attorneys shall comply with L.R. 2093(B).
    - b. Attorneys shall appear at all scheduled hearings, unless:
      - i. counsel advises the Court prior to the hearing that the matter has been resolved;
      - ii. at least one attorney appears and reports the matter has been resolved;
      - iii. the Court has continued the matter; or
      - iv. the Court has otherwise excused attendance.

2. Attorneys for debtors shall provide appropriate representation for the debtor at the § 341 Meeting. Failure of counsel to provide appropriate representation at any hearing or the § 341 Meeting is cause for the Court to reduce attorneys' fees or issue other sanctions.
3. Attorneys for debtors shall file all required documents, including the attorney fee disclosure statement required by L.R. 2016-1(A).
4. Legal Services of Chapter 13 Debtor's Counsel. Regardless of the fee option selected, debtor's counsel shall provide all legal services necessary for representation of the debtor in the bankruptcy case until conclusion of the case. Such services shall include but are not limited to:
  - a. Analyzing the debtor's financial situation and advising whether to file a petition in bankruptcy;
  - b. Preparing and filing petitions, schedules, statements of affairs, and plans, or amendments thereto;
  - c. Providing appropriate representation for the debtor at the § 341 Meeting and appearing and representing the debtor at the confirmation hearing and any continuances thereof, including responding to objections to confirmation;
  - d. Representing the debtor in contested bankruptcy matters, including motions for relief from the automatic stay, to avoid liens, incur debt, buy, sell or refinance;
  - e. Reviewing and objecting to proofs of claims and filing of claims where appropriate; and
  - f. Debtor audits.

When counsel elects the Flat Fee Option, the foregoing services shall be performed for the flat fee unless otherwise ordered by the Court. Chapter 13 debtor's counsel may be compensated on an hourly basis upon application as required herein for representation of the debtor in an adversary proceeding and/or an appeal no matter which fee option is selected.

#### **L.R. 2094 - Attorney Discipline**

- A. **Disbarment or Suspension by Another Court.** Any attorney that has been admitted to practice in the United States District Court for the Eastern District of Missouri that becomes disbarred or suspended from practicing law by any court shall automatically be disbarred or suspended in this Court for the same length of time as the attorney's disbarment or suspension in the original court. Any such attorney shall, immediately upon disbarment or suspension, notify the Clerk of Court of the disbarment or suspension in writing. Failure to do so shall subject the attorney to further sanctions by this Court.
- B. **Request for Reinstatement.** Any attorney disbarred or suspended from practicing in this Court pursuant to L.R. 2094(A) may file a motion with the Court requesting that the Court reinstate the attorney before the expiration of the disbarment or suspension in the original court. The Clerk of Court will then open a miscellaneous proceeding assigned to the Chief Judge of this Court. The Court will set a hearing at which the attorney will be required to show cause as to why the attorney should not continue to be disbarred or suspended in this Court.
- C. **Non-exclusivity.** Nothing in this Rule shall preclude the Court from initiating its own attorney disciplinary proceedings regardless of whether an attorney has been disciplined by another court.



**PART III - A. CLAIMS AND DISTRIBUTION TO CREDITORS**

**L.R. 3001 - Proofs of Claim.**

- A. **Form.** A proof of claim shall conform substantially to Official Form 10.
- B. **Exhibits.** Except for exhibits to proofs of claim subject to the requirements of Fed. R. Bankr. P. 3001(c)(2) or (3), or that are to be filed as directed by any of Official Form 10's official Attachments or Supplements, exhibits, including evidence of a writing and proof of perfection of a security interest, shall not be filed with any proof of claim. Instead, an "Exhibit Summary" (Local Form 9) shall be attached to the proof of claim and the exhibit procedures in L.R. 9040 shall be followed.
- C. **Service of Proof of Claim in Chapter 7, 12 and 13 Cases.** Immediately upon filing a proof of claim or interest, the claimant shall serve the proof of claim and either the exhibits or, if applicable, the Exhibit Summary, on the debtor (if not represented by an attorney), the debtor's attorney (if any), and the Trustee. The claimant shall also simultaneously serve a complete copy of all supporting exhibits, or relevant portions thereof if consented to by the recipient, on the Trustee in Chapter 7 cases, and on the debtor's attorney (or the debtor, if not represented by an attorney) and the Trustee in Chapter 12 and 13 cases. On request of any entity, the claimant shall provide such copies no later than 7 days after the request and at no charge to the requesting entity. Failure to promptly provide the exhibits shall be cause for disallowance of the claim. The filing of a proof of claim electronically is the filer's representation that the filer has served a hard copy of all necessary supporting documents as required by this Rule. No certificate of service is required for service of supporting documents provided pursuant to this Rule only.
- D. **Transferred Claims.** Any assignment or evidence of transfer of a claim filed after a proof of claim has been filed shall be accompanied by the full amount of the transfer of claim fee at the time of filing the transfer of claim and include:
1. the amount of the claim;
  2. the name of the original creditor (transferor); and
  3. the name and address of the transferee.
- E. **Chapter 13 Liens on Principal Residence - Evidentiary Effect.** In a Chapter 13 case, any claim filed by an entity identified by the Debtor in the schedules and Chapter 13 plan as having a lien on the real property that is the principal residence of the Debtor shall be considered prima facie evidence of the right of such entity to receive payments during the pendency of the Chapter 13 case, subject to any properly filed transfer of claim, provided said claim is accompanied by a recorded copy of the original deed of trust or mortgage. Such a claim and its accompanying documents shall not be subject to the exhibit summary requirements of L.R. 9040 but shall be subject to the privacy and redaction requirements of L.R. 9037.

**L.R. 3002 - General Proof of Claim Filing Provisions.**

- A. **Chapter 7.** In a Chapter 7 case, no deadline will be set for filing proofs of claim unless the Trustee requests the Court issue a notice of assets. Upon issuing a deadline for filing claims, the

Court shall give notice of the deadline as required in Fed. R. Bankr. P. 3002(c)(5). The Court will docket all claims whether or not a deadline has been set.

- B. **Conversions.** A proof of claim filed before conversion of any case is deemed filed in the converted case. Any claimant who did not file a proof of claim in a Chapter 9 or Chapter 11 case because the claim was correctly scheduled shall file a proof of claim in the converted case if a claims bar date is set.
- C. **Lease Rejection and Avoidance Action Claims.** Any claim that arises out of the rejection of an executory contract or unexpired lease or from a judgment entered against the creditor pursuant to an action under Chapter 5 of the Bankruptcy Code shall be filed by the claims bar date established in the case or within 30 days after entry of an order approving the rejection or entering judgment, whichever is later.

**LR 3002.1 - Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence.**

- A. **Filing.** Any notice required by Fed. R. Bankr. P. 3002.1 to be filed as a supplement to a proof of claim shall be filed on the case docket instead of in the claims register. The Clerk's Office shall cause any such notice, once it has been filed on the case docket, to be linked to the appropriate proof of claim as a supplement in the claims register without any further action required by the filer. The filer shall still be responsible for serving the notice on the requisite parties as provided under applicable noticing procedures, including certificate of service procedures, and for taking any other action required in relation to the notice.
- B. **Motion for Determination of Final Cure and Payment.** If the holder of a claim subject to Fed. R. Bankr. P. 3002.1 does not file the statement required by Fed. R. Bankr. P. 3002.1(g) within the time set forth therein, either the debtor or the Trustee may file a motion for determination of final cure and payment under Fed. R. Bankr. P. 3002.1(h) within 21 days of the expiration of the deadline for filing the Fed. R. Bankr. P. 3002.1(g) statement. The movant shall set any such motion for hearing.
- C. **Closing Case.** If no motion has been filed for determination of final cure and payment under Fed. R. Bankr. P. 3002.1(h) within the time allowed, the Court will proceed with its normal case closing procedures.
- D. **Surrender or Stay Relief.** If the property underlying a claim that is subject to Fed. R. Bankr. P. 3002.1 is surrendered, or the automatic stay of 11 U.S.C. §362(a) is lifted as to such property, the parties shall no longer be required to comply with the provisions of Fed. R. Bankr. P. 3002.1 with regard to such property.

**L.R. 3003 - Additional Proof of Claim Filing Provisions for Chapter 11 Cases.**

- A. **Claims Bar Date.** In all Chapter 11 cases, on motion without hearing, the Court shall fix a claims bar date. The motion to establish a claims bar date shall include a proposed notice of claims bar date. The movant shall serve the motion and proposed notice on the L.R. 9013-3(D) Master Service List or on those who would be on such a list.

- B. **Notice of Bar Date.** In all Chapter 11 cases, unless otherwise provided, the debtor shall serve notice of the claims bar date with a blank proof of claim on all creditors and parties in interest. The debtor may request that the Court serve notice of the claims bar date as part of the notice of commencement of case.
- C. **Newly Added Creditors.** If the debtor amends its Chapter 11 schedules to add a creditor or to reduce the amount of a claim or reclassify a claim as “contingent” “unliquidated” or “disputed” after having served notice of the claims bar date, then, in addition to the requirements of L.R. 1009, the debtor shall serve the notice of claims bar date on the affected creditor and shall give written notice that the creditor shall file any claim by the bar date or 30 days after the date of the notice, whichever is later.

**L.R. 3004 - Filing of Claims by Debtor.** If the debtor files a proof of claim on behalf of a creditor under Fed. R. Bankr. P. 3004, the debtor shall serve a copy of the claim and Exhibit Summary on the Trustee, if any, and the Trustee’s attorney. Copies of the exhibits supporting the claim shall be provided on request as stated in L.R. 3001(C).

**L.R. 3007 - Objections to Claims.**

- A. **In all Cases Except Chapter 13.** Objections to claims in all cases except Chapter 13 shall be filed in substantial conformity with Local Form 10. The party objecting to a proof of claim shall obtain a hearing date from the appropriate Courtroom Deputy and provide no less than 30 days notice of the objection and hearing to the claimant, the Trustee, the debtor (if not represented by an attorney), and the debtor’s attorney (if any). Any response to such an objection to claim shall be filed no later than 7 days before the hearing on the objection.
- B. **Chapter 13 Claim Objections.** It is the debtor’s duty in a Chapter 13 case to review and object to proofs of claim when necessary. Notwithstanding the foregoing, any party in interest may file an objection to a proof of claim. An objection to a proof of claim in a Chapter 13 case shall be served on: the claimant, the Trustee, the debtor, and the debtor’s attorney (if any). Objections to claims in Chapter 13 cases will be heard on Negative Notice as provided in L.R. 9061. The objection shall state that any responsive pleading shall be filed with the Clerk of Court and served on the objecting party no later than 21 days after service of the objection, or the objection may be granted without further notice or hearing (Local Form 11). If a response is filed, either the objector or the claimant may set the objection for hearing, giving 30 days notice of the hearing to the debtor (if not represented by an attorney), the debtor’s attorney (if any), the claimant (if set for hearing by the objector), the objector (if set for hearing by the claimant), and the Trustee. If both parties consent in a writing not filed with the Court, the objection need not be set for hearing or a hearing set on the objection may be continued or cancelled on no less than 48 hours notice to the Court by either party contacting the appropriate Courtroom Deputy. If no response is timely filed, the objector shall file a certification of no response and follow the procedures in L.R. 9050. This Rule’s provisions are not applicable to notices governed by the procedures set forth in Fed. R. Bankr. P. 3002.1

- C. **Omnibus Objections.** Any party may object to multiple claims in a single objection provided that the objecting party complies with the requirements for omnibus objections set forth in Fed. R. Bankr. P. 3007 and these Rules. Notice of the objection and hearing shall be given as stated in L.R. 3007(A) or (B), as applicable. Omnibus objections to claims shall be filed in substantial conformity with Local Form 12. In jointly administered Chapter 11 cases, each objection shall be assigned a claim objection number by the debtors and shall be numbered sequentially without regard to the particular estate against which the subject claim is asserted. The debtor shall be responsible for maintaining and updating (monthly or more frequently as may be required) a Master Objections to Claims Calendar which shall set forth the hearing date and time, debtor company name, debtor case number, claimant's name, claim number, claim amount, claim classification and claim objection number, whether any response has been received from the claimant, and any final Court determination of the claim objection. The debtor may, but does not need to file the Master Objections to Claims Calendar. The debtor shall promptly provide the Master Objections to Claims Calendar to any party that requests it.
- D. **Claim Objections Based on Lien Avoidance.** L.R. 4003-2(C) governs objections to claims based in whole or in part on lien avoidance under Bankruptcy Code § 522(f)(1).

**L.R. 3011 - Unclaimed Funds.** Funds for creditors that could not be located by the Trustee or funds that otherwise may be unclaimed or in dispute may be paid into the Court's registry only on motion. Payment of funds held in the Court's registry shall be made only on order of the Court, and if the request is for funds held on a particular claim, application shall be made in compliance with the Court's instructions using the local form application and local form affidavit found on the Court's website.

### **PART III - B. CHAPTER 11, 12 AND 13 PLANS AND PROCEDURES FOR CONFIRMATION**

#### **L.R. 3015-1 - Chapter 12 Plans - Plan Contents.**

- A. **Payments to Trustee for Fees.** In any case where there is not a standing Trustee, the Chapter 12 plan shall provide for payment to the Trustee of 5% of any and all payments under the plan. Such funds shall be in addition to the amount paid to secured creditors. Unless otherwise provided in a confirmed Chapter 12 plan, the Trustee shall hold such funds until the Court allows compensation to the Trustee and authorizes disbursement of such funds to the Trustee. If excess funds remain after the plan is fully performed and all allowed fees and expenses are paid, the Trustee shall distribute such funds in accordance with the plan.
- B. **"Reasonable Time" to Cure Defaults under Bankruptcy Code § 1222(b)(5).** Absent a showing of cause or the written consent of the mortgagee, the "reasonable time" referred to in Bankruptcy Code § 1222(b)(5) shall be the term of the plan, not to exceed 4 years. Consent of the mortgagee to any other time period shall be in writing, filed with the Court, and served on the Trustee prior to the hearing on confirmation of the plan.

- C. **Turnover of Collateral.** When a Chapter 12 plan states that the debtor will surrender collateral to a creditor, the debtor shall release the collateral to the creditor within 45 days of the date of the filing of the petition. To surrender collateral, the debtor shall make the collateral available to the creditor during reasonable hours and at a reasonable location. The debtor and creditor shall cooperate in surrendering and recovering the collateral.
- D. **Treatment of Claims.** Any Chapter 12 plan stating an amount owed to a creditor shall be considered estimated and is not binding on the creditor. An allowed proof of claim shall govern the amount of a claim, valuation of collateral, and classification of the claim. The confirmed Chapter 12 plan shall control the treatment of a claim, including, the numerical rate of interest to be paid when appropriate to pay interest and whether a claim is to be paid through the plan or outside the plan by a party other than the Trustee.
- E. **Distribution on Secured Claims.** The plan shall provide for payment of secured claims by the Trustee not less frequently than annually beginning with the first distribution made by the Trustee. The plan shall provide for allowed secured claims to be paid not less than annually over the plan term, or as specified in the plan, with interest as calculated under L.R. 3015-1(F).
- F. **Interest on Secured Claims.** All Chapter 12 plans shall provide for payment of interest on secured claims paid through the plan and shall specify the interest rate to be applied. Absent evidence to the contrary, the applicable interest rate shall be the rate posted and published by the Clerk of Court as prescribed herein. The interest rate in effect at the time of the filing of the petition shall remain in effect throughout the term of the case. The applicable interest rate shall be determined by the Clerk of Court semi-annually as follows:
1. **January 1 - June 30:** For petitions filed between January 1 and June 30 of each year, the interest rate shall be the prime rate on December 1 of the previous year, plus 1.5% (one and one-half percentage points). This rate shall be posted by the Clerk of Court by December 10 or the first business day thereafter.
  2. **July 1 - December 31:** For petitions filed between July 1 and December 31 of each year, the interest rate shall be the prime rate on June 1 of the current year, plus 1.5% (one and one-half percentage points). This rate shall be posted by the Clerk of Court by June 10 or the first business day thereafter.
- G. **Payments through the Plan.** The plan shall provide for all claims to be paid by the Trustee through the plan except as noted herein or as permitted by the Court. The following may be paid outside of the plan:
1. Claims on the home in which the debtor resides, if the claim is for:
    - a. post-petition mortgage payments;
    - b. post-petition mobile home payments;
    - c. post-petition rent payments; and
  2. Claims for child support arrearage if the arrearage was being paid pursuant to a pre-petition agreement and the child support creditor consents to continuation of the payment

arrangement post-petition. Consent of the creditor shall be in writing, filed with the Court and served on the Trustee prior to the hearing on confirmation of the plan.

**L.R. 3015-2 - Chapter 13 Plans - Plan Contents.**

- A. **“Reasonable Time” to Cure Defaults under Bankruptcy Code § 1322(b)(5).** Absent a showing of cause or the written consent of the mortgagee, the “reasonable time” referred to in Bankruptcy Code § 1322(b)(5) shall not exceed the shorter of 48 months or the plan duration. Consent of the mortgagee to any other time period shall be in writing, filed with the Court, and served on the Trustee prior to the hearing on confirmation of the plan.
- B. **Turnover of Collateral.** When a Chapter 13 plan states that the debtor will surrender collateral to a creditor, the debtor shall release the collateral to the creditor within 45 days of the date of the filing of the petition. To surrender collateral, the debtor shall make the collateral available to the creditor during reasonable hours and at a reasonable location. The debtor and creditor shall cooperate in surrendering and recovering the collateral.
- C. **Minimum Distribution to Unsecured Creditors.** The plan shall state a minimum sum guaranteed for distribution to holders of non-priority, unsecured claims. Such minimum shall be 100% or a fixed dollar amount. Such amount shall constitute a minimum distribution only.
- D. **Payments through the Plan.** The plan shall provide for all claims to be paid by the Trustee through the plan except as noted herein or as permitted by the Court. The following may be paid outside of the plan:
1. Claims on the home in which the debtor resides, if the claim is for:
    - a. post-petition mortgage payments;
    - b. post-petition mobile home payments;
    - c. post-petition rent payments; and
  2. Claims for child support arrearage if the arrearage was being paid pursuant to a pre-petition agreement and the child support creditor consents to continuation of the payment arrangement post-petition. Consent of the creditor shall be in writing, filed with the Court and served on the Trustee prior to the hearing on confirmation of the plan.
- E. **Interest on Secured Claims.** All Chapter 13 plans shall provide for payment of interest on secured claims paid through the plan and shall specify the interest rate to be applied. Absent evidence to the contrary, the applicable interest rate shall be the rate posted and published by the Clerk of Court as prescribed herein. The interest rate in effect at the time of the filing of the petition shall remain in effect throughout the term of the case. The applicable interest rate shall be determined by the Clerk of Court semi-annually as follows:
1. **January 1 - June 30:** For petitions filed between January 1 and June 30 of each year, the interest rate shall be the prime rate on December 1 of the previous year, plus 1.5% (one and one-half percentage points). This rate shall be posted by the Clerk of Court by December 10 or the first business day thereafter.

2. **July 1 - December 31:** For petitions filed between July 1 and December 31 of each year, the interest rate shall be the prime rate on June 1 of the current year, plus 1.5% (one and one-half percentage points). This rate shall be posted by the Clerk of Court by June 10 or the first business day thereafter.
- F. **Monthly Payments.** Unless otherwise permitted by the Court, the plan shall provide for the debtor to make regular monthly payments to the Trustee. Such monthly payments shall not be less than \$75.
- G. **Payment of Chapter 13 Attorneys Fees through Plan.**
- a. **In cases filed prior to October 17, 2005:** When paid through the plan, unless otherwise specified, the Chapter 13 Trustee shall pay the debtor's attorney's fees at the rate of 35% of funds available for distribution at the disbursement level for secured creditors.
  - b. **In cases filed on or after October 17, 2005:** The debtors' attorney's fees shall be paid by the Trustee after monthly payments to secured creditors. However, a maximum of \$2,000 in attorney fees, minus any attorney fees paid directly by the debtor, may be paid after monthly payments for post-petition real estate contract payments, post-petition executory contract payments, and unassigned domestic support obligation payments. Such fees shall be paid in equal monthly payments over twelve or more months. Any attorney fees owed and not paid or payable in equal monthly payments as stated above shall be paid as a lump sum at a disbursement level after all secured claims. If an attorney chooses to amend a confirmed plan to add a provision for payment of some fees in equal monthly payments, the Trustee shall establish the monthly payment by dividing the fees remaining to be paid under the paragraph by the remainder of the repayment period in the paragraph.
- H. **Valuation and Treatment of Secured Vehicle Claims.** Absent evidence to the contrary, the Court presumes an automobile will depreciate at a rate of 1.5% of the vehicle's value per month. The plan shall compensate secured creditors for this rate of depreciation. Absent evidence to the contrary, for purposes of 11 U.S.C. § 506, the Court's Vehicle Valuation Policy shall be 97% of the National Automobile Dealers Association (NADA) (Central Edition) retail value at the time of filing the petition.
- I. **Treatment of Claims.** Any Chapter 13 plan stating an amount owed to a creditor shall be considered estimated and is not binding on the creditor. An allowed proof of claim shall govern the amount of a claim, valuation of collateral, and classification of the claim. The confirmed Chapter 13 plan shall control the treatment of a claim, including, the numerical rate of interest to be paid when appropriate to pay interest and whether a claim is to be paid through the plan or outside the plan by a party other than the Trustee.
- J. **Distribution on Secured Claims.** The plan shall provide for payment of secured claims by the Trustee in equal monthly installments beginning with the first distribution made by the Trustee. The plan shall provide for allowed secured claims to be paid in equal monthly installments over the plan term, or as specified in the plan, with interest as calculated under L.R. 3015-2(E).

- K. **Adequate Protection in Chapter 13 Cases.** All payments required by Bankruptcy Code § 1326(a)(1) shall be made to the Trustee in the amount of the monthly payment provided in the debtor's plan or scheduled in a lease of personal property. Such payments shall be paid in the ordinary course of the Trustee's business to the secured creditor. The Trustee shall make such payments from funds not designated by the plan for payment to other creditors. Creditors may file objections to the amount of such payments. Pending a hearing and contrary ruling, the Trustee shall pay out such sums to the creditor or lessor as provided in this Rule. In determining the monthly payment amount the Court presumes depreciation and valuation as specified in L.R. 3015-2(H).

**L.R. 3015-3 - Chapter 12 and 13 Plans - Form and Filing.**

- A. **Mandatory Model Plan.** For cases filed on and after March 1, 2006, the Court requires the use of the most current form Chapter 12 or 13 plan, as applicable. The form Chapter 13 plan is posted on the Court's web site and adopted as Local Form 13. The form Chapter 12 plan is posted on the Court's web site and adopted as Local Form 27.
- B. **Designation, Caption, and Signature on Chapter 12 and 13 Plans.** Every plan and amended plan shall be dated and signed by the debtor unless otherwise authorized by the Court. If the original plan is not filed with the petition, the plan shall reflect the date, time, and location of the confirmation hearing in the caption. Each amended plan shall be titled "First Amended Plan," "Second Amended Plan," etc., as may be appropriate and shall reflect the date, time, and location of the confirmation hearing in the caption. In a Chapter 12 case, the plan or amended plan shall conspicuously and directly beneath the title state the deadline under L.R. 3015-4(G) or (I), as applicable, by which objections to confirmation shall be filed.
- C. **Service of Plan and Amended Plans.** The debtor shall serve the plan or amended plan on the Trustee, all creditors and parties in interest and shall file a certificate of service thereof in accordance with L.R. 9004(D). Limited service of an amended plan is authorized only as stated in L.R. 3015-5(B)(2).
- D. **Prohibition of Modification by Interlineation.** Absent authority from the Court, no amendments or modifications to a plan or amended plan shall be made by interlineation.

**L.R. 3015-4 - Chapter 12 and 13 Plans - Confirmation Procedures.**

- A. **Original Confirmation Hearing.** The Court will schedule the original confirmation hearing and will provide notice thereof on the notice of commencement of case. If a plan is not confirmed at the original confirmation hearing, the case will be continued on the Court's confirmation calendar until the case is dismissed or a plan is confirmed.
- B. **Attendance at Confirmation Hearings.** The debtor's attorney (or only the debtor, if unrepresented by an attorney) and any party objecting to confirmation shall attend all confirmation hearings in the case unless there are no objections or the objections have been settled or withdrawn. Failure of the debtor or the debtor's attorney to appear at the confirmation hearing



may result in the denial of confirmation. Failure to appear or prosecute an objection at the confirmation hearing shall be considered an abandonment of the objection.

- C. **Certification of Payment of DSOs and Taxes as a Condition for Confirmation.** In a case filed on or after October 17, 2005, the Court shall not confirm a Chapter 12 plan unless the debtor has certified in writing that the requirement of Bankruptcy Code § 1225(a)(7) for confirmation has been met. In a case filed on or after October 17, 2005, the Court shall not confirm a Chapter 13 plan if the debtor has not certified in writing that the requirements of Bankruptcy Code §§ 1325(a)(8) and (9) for confirmation have been met. These certifications may be established by the debtor completing and signing the Debtor's Statement Under Penalty of Perjury at the § 341 Meeting or by filing a statement with the Court prior to the confirmation hearing. In a Chapter 12 case filed on or after October 17, 2005, the Trustee shall report to the Court whether the debtor has certified that the debtor has paid all necessary domestic support obligations.
- D. **Trustee's Certification Concerning Confirmation.** The Trustee shall submit a certification of confirmable plan and confirmation order, provided:
1. no objections to confirmation have been filed, or all objections have been resolved;
  2. all payments due the Trustee from the debtor are "substantially current" under L.R. 3015-4(E); and
  3. the provisions of Bankruptcy Code § 1325 or 1225, as applicable, have been met.
- On receipt of the Trustee's certification of confirmable plan, the Court may confirm the plan and remove the case from the confirmation calendar.
- E. **"Substantially Current."** "Substantially current" means that the debtor has commenced payments by wage withholding and is not more than one payment in arrears. If the debtor is making payments to the Trustee directly (not by wage withholding), then "substantially current" means the debtor has commenced payments and payments are no more than two weeks late. If the debtor is not "substantially current" in payments to the Trustee at the confirmation hearing, the Court may dismiss the case.
- F. **Trustee to Provide Order.** Whether a case is confirmed at or before the confirmation hearing, the Trustee shall provide a confirmation order. The Court shall serve the signed confirmation order on the debtor, the debtor's attorney (if any), and the Trustee.
- G. **Objections to Original Plan.** Objections to confirmation of the debtor's original plan shall be filed with the Clerk of Court and served on the debtor, the debtor's attorney (if any), and the Trustee no later than 21 days after the conclusion of the § 341 meeting. An objection to a plan shall continue until the objection is overruled or withdrawn. Failure to appear or prosecute an objection at the confirmation hearing shall be considered an abandonment of the objection.
- H. **Pre-confirmation Amended Plans.** Amended plans shall be filed with effort to expedite the confirmation process. Failure to promptly file an amended plan may result in dismissal of the case. The debtor shall serve the amended plan on all creditors and parties in interest. The debtor shall contact the Courtroom Deputy to have the amended plan scheduled for hearing on the next confirmation calendar that is not sooner than 21 days after service of the amended plan. The date,

time, and location of the confirmation hearing of the amended plan shall be stated in the caption of the amended plan. The Court may waive the 21 day objection period in the interest of judicial economy.

- I. **Objections to Pre-confirmation Amended Plans.** Objections to confirmation of an amended plan shall be filed and served no later than 21 days after service of the amended plan.
- J. **Service of Chapter 12 Confirmation Order.** No later than 7 days after entry of an order confirming a Chapter 12 plan, the debtor shall serve a copy of the confirmation order or notice of confirmation order on all creditors and parties in interest. Failure to so serve the order shall constitute cause to set aside the order of confirmation.

**L.R. 3015-5 - Chapter 12 and 13 Plans - Post-Confirmation Amendments and Modifications.**

- A. **Motion to Amend a Confirmed Plan.** A debtor who seeks to amend a confirmed plan shall do so by motion. Such a motion shall include a brief but specific statement of the reason for the amendment and shall identify all changes to the plan terms. In conjunction with the motion to amend, the debtor shall file an amended plan and either an amended budget or a statement that there has been no change in the debtor's income and expenses. Such statement or amended budget shall be signed by the debtor.
- B. **Service of Motion to Amend a Confirmed Plan.**
  - 1. **Generally.** The debtor shall serve a copy of the motion to amend, the amended plan and either an amended budget or statement that there has been no change in income or expenses on the Trustee and on all creditors and parties in interest. The debtor shall contact the Courtroom Deputy to have the motion to amend and the amended plan scheduled for hearing on the next confirmation calendar that is not sooner than 21 days after service of the motion to amend. The debtor shall send notice of the confirmation hearing to all parties served with the motion and amended plan. The date, time, and location of the confirmation hearing shall be stated in the caption of the amended plan.
  - 2. **Limited Service.** Unless otherwise directed, service of the motion to amend a confirmed plan, the amended plan and either an amended budget or statement that there has been no change in income or expenses may be limited to the Trustee if the proposed amended plan meets either of the following criteria:
    - a. the proposed plan only changes the terms of the confirmed plan by increasing the amount of the plan payment or plan duration; or, in a Chapter 13 case,
    - b. the proposed plan:
      - i. changes 12 or fewer monthly payments;
      - ii. lowers the monthly plan payment by less than twenty-five percent of the existing plan payment;
      - iii. is the first amendment to the debtor's first confirmed plan; and
      - iv. does not waive any missed plan payments.
- C. **Objections to Motion to Amend a Confirmed Plan.** Objections to the debtor's motion to amend a confirmed plan and to the proposed amended plan shall be filed and served on the debtor (if

unrepresented by an attorney), the debtor's attorney (if any), and the Trustee no later than 21 days after service of the motion to amend, the amended plan and an amended budget or statement that there has been no change in income or expenses. The Court may waive the 21 day objection period in the interest of judicial economy. Failure to appear or prosecute an objection at the confirmation hearing shall be considered an abandonment of the objection.

- D. **Confirmation and Trustee's Certification.** The Trustee shall submit a certification of confirmable plan and confirmation order with respect to an amended plan, provided:
1. no objections to confirmation have been filed, or all objections have been resolved;
  2. all payments due the Trustee from the debtor under the amended plan are substantially current under L.R. 3015-4 (E); and
  3. the provisions of Bankruptcy Code § 1325 or 1225, as applicable, have been met.

**L.R. 3017 - Plan Disclosure Statement in Chapter 11 Cases.**

- A. **Form and Service of Disclosure Statement.** Every Chapter 11 disclosure statement filed with the Court shall be titled to identify whether it is the original disclosure statement or an amendment thereof (e.g. "First Amended Disclosure Statement," "Second Amended Disclosure Statement," etc.). The proponent of the disclosure statement shall serve a copy of the disclosure statement without charge on: (1) on the L.R. 9013-3(D) Master Service List or on those who would be on such a list; (2) the Securities and Exchange Commission when the SEC is a party in the case; and (3) any entity making a written request for a copy.
- B. **Notice of Chapter 11 Disclosure Statement and Hearing Thereon.** The proponent of the Chapter 11 plan and disclosure statement shall provide notice of hearing on the disclosure statement and notice of the time for filing objections as required by Fed. R. Bankr. P. 2002(b)(1), 2002(d)(5), and 3017, using a form in substantial conformity with Local Form 14 or as otherwise approved by the Court. The notice of hearing on the disclosure statement shall explain that on written request, a copy of the disclosure statement may be obtained from the plan proponent without charge.
- C. **Objection to Disclosure Statement.** Unless otherwise ordered by the Court, any entity with an objection to the disclosure statement shall file and serve its objection no later than 7 days before the hearing on the disclosure statement. The objection shall identify those portions of the disclosure statement which the objecting party asserts are incomplete, misleading, erroneous, or are otherwise the basis for the objection. Where appropriate, the objector shall propose acceptable language requested to be included in the disclosure statement. The objector shall serve its objection on the proponent of the disclosure statement and on the parties set forth in L.R. 3017(A). The parties shall comply with L.R. 2093(B) in an attempt to resolve any objections to the disclosure statement.
- D. **Notice of Approval of Disclosure Statement and Notice of Confirmation Hearing.** Upon approval of the disclosure statement, the plan proponent shall provide the notice required pursuant to Fed. R. Bankr. P. 2002(b)(2), 2002(d)(6), and 2002(d)(7), using a form in substantial conformity with Local Form 15, or as otherwise approved by the Court, and shall serve all creditors and parties in interest with those documents required by Fed. R. Bankr. P. 3017(d). The

proponent's notice of hearing on confirmation shall include the time within which objections to confirmation shall be served pursuant to L.R. 3020(A).

**L.R. 3018 - Acceptance or Rejection of Chapter 11 Plan.**

- A. **Summary of the Ballots Cast.** At least 72 hours prior to the confirmation hearing in a Chapter 11 case, the plan proponent shall file a written summary of the ballots cast and shall serve a copy of the summary on the L.R. 9013-3(D) Master Service List or on those who would be on such a list, any party who has filed an objection to the plan, and any party whose ballot was received but not counted by the plan proponent. The summary shall contain a separate listing of acceptances and rejections and shall include the following information by class:
1. For each creditor filing an acceptance or rejection:
    - a. the name of the creditor;
    - b. the dollar amount of each claim; and
    - c. whether the debtor has objected to the claim;
  2. the total dollar amount and number of allowed claims voted;
  3. the percentage dollar amount of acceptances;
  4. the percentage number of acceptances; and
  5. a description of all ballots not counted, the reason(s) therefor, and, if ascertainable by the plan proponent, a statement as to whether counting these ballots would have changed the claimants' classes' acceptance or rejection of the plan under Bankruptcy Code § 1126.
- B. **Tabulation of Balloting.** Only ballots from the holder of a claim or interest allowed under Bankruptcy Code § 502 or those temporarily allowed by the Court pursuant to and in accordance with Fed. R. Bankr. P. 3018(a) shall be counted. In tabulating the ballots, the following rules shall govern:
1. Ballots that are not signed or where a company name cannot be determined from the signature line shall not be counted by the plan proponent as either an acceptance or rejection.
  2. Ballots where the name of the claimant cannot be determined from the face of the ballot shall not be counted by the plan proponent as either an acceptance or rejection.
  3. Ballots that are submitted on a form that does not conform substantially with the form of the ballot approved by the Court shall not be counted by the plan proponent as either an acceptance or rejection.
  4. Where the amount shown as owed on the ballot differs from the schedules and a proof of claim has been filed, the amount shown on the proof of claim shall be used for the purpose of determining the amount voting. If no proof of claim has been filed, the amount shown on the schedules as undisputed, liquidated and non-contingent shall be used.
  5. Ballots that do not show a choice of either acceptance or rejection shall not be counted by the plan proponent as either an acceptance or a rejection.
  6. Ballots that are received by the plan proponent after the last date set for filing of ballots shall not be counted by the plan proponent as either an acceptance or rejection.

7. Where duplicate ballots are filed on the same claim and one elects acceptance and one elects rejection, neither ballot shall be counted by the plan proponent as either acceptance or rejection unless the latter filed ballot is designated as amending the prior ballot.
8. Ballots that are in any other way vague as to the claimant's identity or intention regarding its vote shall not be counted by the plan proponent as either an acceptance or rejection.
9. Notwithstanding anything to the contrary in these Rules, a creditor's election on the ballot to opt into a 'convenience class' (or some class similar in name and substance) shall be deemed an irrevocable election.

All ballots that are not counted under this subsection shall be included in the ballot summary pursuant to L.R. 3018(A)(5). Any claimant whose ballot was received by the plan proponent but not counted may request that the Court order that the ballot be counted. Such a request may be made either orally at the confirmation hearing or by written motion filed with the Court prior to the confirmation hearing.

- C. **Preservation of Ballots.** The attorney for the plan proponent (or any other entity ordered by the Court) shall keep and preserve all original ballots which are cast by the holders of claims or interests, along with any other relevant papers, for 2 years after the plan is confirmed. Unless otherwise directed, copies of the original ballots shall be made available upon written request to the attorney for the plan proponent or other entity ordered to keep the ballots. The original ballots shall be brought to the confirmation hearing and made available to any party at the hearing.

**L.R. 3020 - Confirmation of Chapter 11 Plan.**

- A. **Objections to Confirmation.** Unless otherwise ordered by the Court, objections to confirmation of a plan shall be filed and served at least 7 days before the confirmation hearing. Objections to confirmation of the plan shall be served on the plan proponent, on the L.R. 9013-3(D) Master Service List or on those who would be on such a list, and any entity making a written request.
- B. **Confirmation of a Chapter 11 Plan.** The plan shall be titled to identify whether it is the original plan or an amended plan (e.g. "First Amended Plan," "Second Amended Plan," etc.) and shall contain all modifications and amendments as presented for confirmation. Unless otherwise ordered for good cause shown, the plan proponent shall serve the order of confirmation on all creditors and parties in interest no later than 72 hours after entry of the order confirming the plan. The order of confirmation should be in substantial conformity with Local Form 16. If a proposed order of confirmation is not in substantial conformity with Local Form 16, the plan proponent shall serve the proposed order on the L.R. 9013-3(D) Master Service List, or on those who would be on such a list, 7 days before the plan confirmation hearing using e-mail if possible but shall not file the proposed order with the Court. The plan proponent shall then file a certificate of service for the non-conforming proposed order without attaching the proposed order. The plan proponent will submit to the Court, via e-mail, any such non-conforming proposed order. On request and order of the Court, the plan proponent may be required to serve the confirmed plan with the order of confirmation on all creditors and parties in interest. On written request of any entity, the plan proponent shall provide a copy of the confirmed plan without charge.

- C. **Certification of DSOs as a Condition for Confirmation of a Chapter 11 Plan.** As a prerequisite for the Court to confirm a Chapter 11 plan in a case filed on or after October 17, 2005, the individual debtor shall certify that any and all amounts payable under a domestic support obligation order that first became payable after the date of the filing of the petition have been paid. The debtor will be deemed to have satisfied this certification requirement through live testimony given at the confirmation hearing.

**L.R. 3021 - Distribution on Claims in Chapter 13 Cases.**

- A. **Distribution Following Relief from the Automatic Stay.**
1. **Certain Lienholders Not Entitled to Share in Subsequent Distributions.**  
In a Chapter 13 case, if a creditor obtains an order for relief from the automatic stay of Bankruptcy Code § 362 to foreclose on collateral, the Trustee shall cease distribution on the claim of such creditor and on the claims of all other creditors with voluntary liens on the collateral until such time as:
    - a. an accounting of the proceeds of the collateral has been filed with the Court and a copy of the accounting has been served on the Trustee; and
    - b. the creditor files an amended claim, stating the amount of any unsecured balance to be paid by the Trustee through the plan.
  2. **Option to Receive Continued Distributions.** A creditor whose claim was secured by collateral on which relief from the automatic stay has been granted may continue receiving disbursements under the confirmed Chapter 13 plan by obtaining an order for continued payment.
- B. **Distribution on Claims following Relief from the Automatic Stay against Co-Debtor.** In a Chapter 13 case, where the debtor's plan provides for payment to a creditor on a co-signed debt, the Trustee shall continue distribution notwithstanding relief from the automatic stay to pursue the co-debtor. The creditor who obtains relief from the automatic stay to pursue a co-debtor shall account to the Court, the debtor, and the Trustee for all funds recovered from the co-debtor.
- C. **Post-petition Adjustments on Monthly Payments to a Creditor.** Any Chapter 13 plan directing the Trustee to maintain regular monthly, post-petition payments on a claim may provide for the plan payment to the Trustee to increase in accordance with any adjustment in the loan agreement or contract. For the Trustee to adjust the amount distributed to the creditor for a claim not governed by the procedures set forth in Fed R. Bankr. P. 3002.1, either the debtor or the creditor shall provide notice to the Trustee describing the adjusted monthly payment. The debtor or creditor shall serve a copy on the Trustee if such notice is filed with the Court. Such direct contact by mail from such claim holders for purposes of providing this information shall not be considered a violation of the automatic stay. Upon notice from the debtor or a holder of the claim of a change in the amount of a post-petition monthly obligation which the Trustee is paying under a plan, the Trustee shall adjust the monthly distribution on such claim in accordance with such notice without the need for an amended plan or notice to other creditors.
- D. **Payments to Secured Creditors after Minimum Distribution to Unsecureds.** If a Chapter 13 plan calls for a debt to be paid in equal monthly payments over a certain period of time, the

Trustee shall amortize the amount of the claim to receive full payment over the payment period and with the interest specified in the plan, and shall pay that monthly amount to the creditor to the extent funds are available. However, after the Trustee pays general unsecured creditors the full amount guaranteed in the Chapter 13 plan, the Trustee may make additional disbursements on a pro-rata basis to creditors who are to be paid in equal monthly payments over a certain period of time. This paragraph shall not apply to creditors who are to receive their continuing monthly contract payments from the Trustee.

- E. **Payments to Attorneys upon Disbarment or Suspension.** Upon written notice from the Court that an attorney is disbarred or suspended from practice by any court, the Trustee shall stop payment of fees to that attorney in all cases in which the attorney is attorney of record. The Trustee shall not hold or accrue any amounts of payment of that attorney's fees. The Trustee shall send a letter to the attorney stating that payment of fees has stopped pursuant to this Rule. The attorney may file a motion seeking an order directing that payment of fees continue in spite of the disbarment or suspension. Such a motion shall not be filed on negative notice but shall be set for hearing and noticed to the Trustee and the debtor.
- F. **Chapter 13 Creditor Disclosure of Real Estate Mortgage Obligations.** The holders of claims secured by real estate may provide accurate billing and account information directly to the debtor regarding any post-petition obligation to be paid directly by the debtor pursuant to the confirmed Chapter 13 plan, or to both the debtor and the Trustee when the post-petition obligation is paid by the Trustee pursuant to the confirmed Chapter 13 plan. Such direct contact by mail from such claim holders for purposes of providing this information shall not be considered a violation of the automatic stay. It is the intent of this Rule to advise the debtors of their monthly mortgage obligations and to provide debtors with information regarding any adjustments made to the mortgage obligations pursuant to applicable non-bankruptcy law which may arise during the pendency of their Chapter 13 cases.
- G. **Application of Payments Secured by Real Estate in Chapter 13 Cases.** Holders of claims secured by real estate shall apply payments for mortgage payments accruing **post-petition**, whether made by the Trustee or by the debtor to post-petition monthly contractual mortgage obligations, including principal, interest, escrow obligations and other adjustments made to the mortgage obligation pursuant to applicable non-bankruptcy law, if not otherwise noted on the payment. Holders of claims secured by real estate shall apply payments made by the Trustee for **pre-petition** arrearage claims to the balance of unpaid contractual mortgage obligations which accrued prior to the petition date if not otherwise noted on the payment.

**L.R. 3022 - Final Decree in Chapter 11 Cases.**

- A. **Application for Final Decree.** The application for final decree and any status report shall include information concerning:
1. the date the order confirming the plan became final;
  2. whether deposits required by the plan have been made;
  3. whether the property proposed by the plan to be transferred has been transferred;
  4. whether the debtor or successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan;

5. whether payments under the plan have commenced;
6. a breakdown of the disbursements, as applicable, from the inception of the case for fees and expenses of debtor's counsel and other professionals;
7. the percentage dividend paid and/or to be paid, or an explanation of why the dividend percentage is not yet determinable;
8. the status of all pending motions, contested matters, objections to claims, and adversary proceedings;
9. a list of all motions, contested matters, objections to claims, and adversary proceedings which are to be filed;
10. whether all fees due the United States Trustee have been paid; and
11. other facts as may be necessary to enable the Court to determine whether entry of the final decree is appropriate. The application for final decree shall state that the estate has been fully administered.

No later than 3 months after entry of the confirmation order in a Chapter 11 case, the plan proponent shall file an application for a final decree or show cause why the final decree should not be entered. At or before the show cause hearing, the plan proponent shall file a status report as required herein. Commencing with the seventh month after confirmation, the plan proponent shall file a status report every 4 months until the entry of the final decree.

- B. Service of Application for Final Decree and Objections Thereto.** The plan proponent shall serve the application for a final decree or the status report on the L.R. 9013-3(D) Master Service List or on those who would be on such a list. The application for final decree shall include a notice that any objections to the application shall be filed with the Court no later than 30 days after service of the application. If no objections are filed, the Court may issue a final decree and close the case. If objections are filed, the plan proponent shall contact the Courtroom Deputy to set the application for final decree for hearing and shall provide notice of the hearing to all parties who filed an objection and to the United States Trustee. All objections to the application for final decree shall be served on the debtor, the plan proponent, and the United States Trustee.

#### **PART IV. THE DEBTOR, DUTIES, AND BENEFITS**

##### **L.R. 4001-1 - Relief from the Automatic Stay.**

- A. Service of Motions for Relief from the Automatic Stay.** The movant shall serve any motion for relief from the automatic stay and notice of hearing on: the debtor, the debtor's attorney (if any), and the Trustee, if any, and any entity actually known by the movant to have a mortgage on or consensual interest in the collateral. In Chapter 11 cases, unless otherwise ordered, the movant shall also serve the motion and notice on the L.R. 9013-3(D) Master Service List or on those who would be on such a list, and on any entity who may be affected by the motion.
- B. Hearings on Motions for Relief from the Automatic Stay.** Motions for relief from the automatic stay shall ordinarily be set giving a minimum of 21 days notice. If the movant sets a hearing on the motion to take place on a date that is more than 30 days from the date of the motion, the movant shall be deemed to have waived the movant's right to have the automatic stay terminated pursuant to Bankruptcy Code § 362(e)(1).



C. **Content of Motion for Relief from the Automatic Stay.**

1. **Motion for Relief from the Automatic Stay to Foreclose on Collateral.**

a. **General Provisions.** In a case filed under any chapter in which the movant is seeking to foreclose on collateral, the motion shall recite the legal and factual basis on which relief is sought including:

- i. the basis for the debt;
- ii. the balance of the indebtedness on the petition date or otherwise; and
- iii. the date and manner of perfection, including book and page number, certificate of title, or UCC-1 recording.

Documentation in support of a motion for relief shall be summarized using an Exhibit Summary following the procedures under L.R. 9040(A) unless otherwise permitted in this Rule. On request, the movant shall provide copies of all exhibits in their entirety as set forth in L.R. 9040(C).

b. **Chapter 13 Cases.** In a Chapter 13 case in which the movant is seeking to foreclose on collateral, the following procedures apply:

i. **Balance due.** The motion shall include a statement of the amount due including a breakdown of the following categories:

- (1) unpaid principal;
- (2) accrued interest from a specific date to a specific date;
- (3) late charges from a specific date to a specific date;
- (4) attorneys' fees;
- (5) advances for taxes, insurance and the like; and
- (6) any other charges.

ii. **Post-Petition Payments.** In Chapter 13 cases, where the movant is seeking relief from the stay for failure to make post-petition payments on a claim secured by real property that is the Debtor's principal residence or is treated by the Debtor's Chapter 13 plan pursuant to Bankruptcy Code § 1322(b)(5), the motion or attachments thereto, shall contain a legible post-petition payment history. The payment history shall set forth:

- (1) the date each post-petition payment was received,
- (2) the amount of each post-petition payment received, and
- (3) how each post-petition payment was applied by the movant.

Pursuant to Bankruptcy Code § 362(g)(2), the Debtor has the burden to prove any post-petition payment(s) alleged to have been made but not set forth in the motion, or attachments thereto.

iii. **Exhibits.** Select exhibits or page(s) may be attached to the motion provided the exhibit page(s) contain evidence of perfection. It is sufficient for the movant to attach only the first page of a deed of trust, certificate of title, or UCC-1 form showing the recorder's stamp and verifying lien perfection. On request, the movant shall provide copies of all exhibits in their entirety as set forth in L.R. 9040(C).

- iv. **Order Granting Relief from Automatic Stay - Effect on Secured Claims.** All orders granting relief from the automatic stay in a Chapter 13 case shall contain the following language:

*The Trustee is directed to discontinue payment on all claims secured by the property against which relief from the automatic stay is granted in this Order. The Trustee is directed to resume payment on such claims on notification pursuant to L.R. 3021(A).*

2. **Motions for Relief from the Automatic Stay for All Other Purposes.** In a case under any chapter of the Bankruptcy Code, a motion for relief from the automatic stay for any purpose other than to foreclose on collateral shall include all legal and factual allegations supporting the relief requested and shall use the Exhibit Summary procedures of L.R. 9040.
- D. **Responses to Motions for Relief from the Automatic Stay.** Any response to a motion for relief from the automatic stay shall be filed no later than 7 days before the hearing date set for the motion for relief. The response shall specifically admit or deny the allegations in each paragraph. A general denial is insufficient and prohibited. When a response asserts adequate protection, the response shall state how the movant will be adequately protected if the automatic stay remains in effect. The parties shall exchange and file exhibits following the procedures in L.R. 9040(C).
- E. **Duty to Confer.** As required by L.R. 2093(B), in advance of hearing, attorneys for the parties involved in a motion for relief shall confer with respect to the issues raised by the motion to determine whether a consensual order may be entered or whether a stipulation may be reached concerning relevant facts.
- F. **Consent Motions for Relief from the Automatic Stay.** A consent motion for relief from the automatic stay shall be styled as a “consent motion.” Pursuant to L.R. 9013-1(F), a consent motion for relief from the automatic stay need not be set for hearing and may be ruled on without hearing. The Clerk of Court is authorized to waive the filing fee for a motion for relief from the automatic stay when the motion is filed with the written consent and signature of the Trustee and all respondents in all cases except Chapter 13 cases. In a Chapter 13 case, the written consent of the Trustee is not necessary. Consent may be shown by separate certificate of consent or certificate of no opposition signed by the responding party but such consent or no opposition shall be filed as part of the consent motion. In a Chapter 7 case, the Trustee’s Report of No Distribution shall be deemed the Trustee’s consent to any motion for relief from the automatic stay, and the Trustee’s signature will not be required on the consent motion where such a report has been filed. All consent motions for relief from stay shall be filed using the proper non-fee consent motion event in the CM/ECF system to avoid automatic assessment of the filing fee. Consent motions for relief to proceed with a domestic action do not require the signature of the non-debtor spouse.

- G. **Orders on Motions for Relief from the Automatic Stay.** Proposed Orders on any motion for relief from the automatic stay shall follow the format in L.R. 9050 and shall specifically describe the property (collateral) that is the subject of relief. “So Ordered” provisions shall not be used with motions for relief from the automatic stay. In Chapter 13 cases, the order shall include the language set forth in L.R. 4001-1(C)(1)(b)(iv).
- H. **Mandatory Form Consent Order & Stipulation re: Relief from Stay on Real Property.** The Court adopts as a Local Form “Consent Order and Stipulations in Settlement of Motion for Relief.” This form is available on the Court’s web site. Absent good cause, use of this form is mandatory in Chapter 13 cases.
- I. **Emergency and Ex Parte Relief from the Automatic Stay.** Procedures for emergency and ex parte relief from the automatic stay shall be as stated in L.R. 9013-2(C) and (D), respectively.
- J. **Continuances.** If the court does not render a final decision on a motion for relief from stay during the 60-day period referenced in Bankruptcy Code § 362(e)(2), any party wishing to have the automatic stay extended until a continued hearing date shall submit a proposed order continuing the hearing and ordering that the stay be extended until such hearing. If the movant sets the motion for a hearing on, or requests a continuance of the hearing to a date that is more than 60 days from the date of the motion, the movant shall be deemed to have waived the movant’s right to have the automatic stay terminated pursuant to Bankruptcy Code § 362(e)(2).

**L.R. 4001-2 - Requests for Continuation of the Stay.** In cases where the automatic stay terminates on a date certain pursuant to Bankruptcy Code §§ 362(c)(3), (h), 521(a)(2), or 521(a)(6), any motion to continue the stay shall be filed within 14 days of the filing of the voluntary petition. When any such motion is filed by the Trustee, it shall be filed within 21 days of the filing of the voluntary petition. Such motions will be set for hearing between 21 and 30 days after the date of the petition. Responses may be filed until the time of the hearing. A motion for continuation of the stay shall be filed using the “Motion to Extend Automatic Stay” event.

**L.R. 4001-3 - Verified Motion for Imposition of the Stay.** In cases where no automatic stay exists upon the filing of the petition under Bankruptcy Code §§ 362(b)(20), (21), (c)(4), or (n), the debtor, Trustee, or any party in interest may file a verified motion for emergency imposition of the automatic stay under Bankruptcy Code § 362 as to any creditor(s). Such a motion shall be filed using the “Motion to Impose Automatic Stay” event. The movant shall set such motion for hearing and shall serve the motion on and give notice of the hearing to the debtor, Trustee, all affected parties, the trustee or successor trustee of any pending foreclosure proceeding, and any party in possession of the debtor’s repossessed collateral. The motion for imposition of an emergency stay may be considered by the Court after notice and a hearing, and, if granted, the stay will continue for a period not to exceed 7 days or until conclusion of the final hearing on imposition of the stay, whichever is less. Responses to the motion for emergency imposition of the automatic stay may be filed until the time of the hearing. The motion shall (i) identify the circumstances justifying imposition of a stay, and (ii) indicate whether the movant consents to the continued processing of the creditor’s action, including statutory notices and publication or continued possession of the collateral pending final hearing.

**L.R. 4001-4 - Motion for Order Confirming the Stay is Inapplicable.** The Court shall consider without hearing all motions under Bankruptcy Code § 362(j) for orders confirming the stay has been terminated. The motion and proposed order shall both provide with specificity the basis of the movant's belief that the stay has terminated or is inapplicable, including, e.g., previous case numbers and dates. The motion shall be filed using the "Termination or Absence of Stay" event. No filing fees are required to be collected for such motions.

**L.R. 4001-5 - Automatic Stay with Respect to Lessors of Real Property under Bankruptcy Code § 362(l).** The following procedures will apply to proceedings to reimpose the automatic stay following a residential eviction against the debtor under Bankruptcy Code § 362(l):

1. The debtor shall file the certification required by Bankruptcy Code § 362(l)(1) by completing the information requested on page two of the voluntary petition.
2. The debtor shall deposit with the Court rent payments that will come due within the 30-day period after the filing of the bankruptcy petition. The debtor shall submit such rent payments by tendering to the Court a cashier's or certified check, or money order payable to the lessor. The debtor shall also provide the Court with a copy of the pre-petition judgment for possession at the time of submitting the rent payment to the Court.
3. The Court will send notice to the designated lessor advising that the lessor may elect to
  - (a) consent to receive the rent payment (and shall give payment instructions, e.g. address to which the Court should mail the check), or
  - (b) object to receiving the rent payment.The lessor shall have 14 days from the date of the Court's notice to return the notice with the lessor's election. The lessor's return of the notice indicating that the lessor elects to object to receiving the rent payment shall be deemed an objection to receiving the rent payment filed under Bankruptcy Code § 362(l)(3)(A). The lessor may also file a separate objection to receiving the rent payment. Failure to file a timely objection shall be the lessor's consent to receiving the debtor's rent payments, and the Court will transmit the debtor's rent payment to the lessor. If the lessor files a timely objection to receiving the rent payment, the Court will set such objection for hearing.
4. Within 30 days of the filing of the petition, the debtor shall file the certification required by Bankruptcy Code § 362(l)(2) advising that the debtor has cured the pre-petition default and shall serve that certification on the lessor.
5. If the lessor objects to the certification under Bankruptcy Code § 362(l)(2), the lessor shall file an objection within 14 days of receipt of the certification and serve the objection on the debtor and the debtor's counsel, if any. The Court will set a hearing as required under Bankruptcy Code § 362(l)(3).
6. If the debtor fails to file the necessary certification(s) under Bankruptcy Code § 362(l)(1) or (2), the Court will provide the lessor and the debtor with a certified copy of the docket sheet as required by Bankruptcy Code § 362(l)(4)(B).

**L.R. 4003-1 - Scheduling Exemptions.** Each claimed exemption on Schedule C shall include:

1. a description of the property claimed as exempt;
2. citation to the law or authority providing a basis for the exemption;
3. the dollar value of the claimed exemption; and
4. the current market value of the property.

**L.R. 4003-2 - Motion to Avoid Liens under Bankruptcy Code § 522(f)(1).**

**A. Content and Service.** All motions to avoid liens shall contain:

1. a specific description of the property subject to the lien avoidance action; and
2. a description of the documents giving rise to the lien.

A specific description of the property is not necessary if the debtor does not have a listing of the property and the debtor can demonstrate an attempt to obtain that information in writing from the creditor at least 14 days prior to filing the motion. The motion shall be served on the Trustee and the creditor whose lien is sought to be avoided. All motions to avoid judicial liens on real property shall be filed using the Local Form “Motion to Avoid Lien” found on the Court’s web site. All motions to avoid liens shall be served on the registered agent of any non-individual whose lien is sought to be avoided.

**B. Responses and Hearings.** Motions to avoid liens may be set for hearing following the Negative Notice procedures of L.R. 9061. Any response shall be filed no later than 21 days after service of the motion pursuant to L.R. 9061(B). If a response is filed, the debtor shall set the motion for hearing giving no less than 14 days notice of the hearing pursuant to L.R. 9061(D)(1).

**C. Objections to Claims Based On Lien Avoidance.** If a party files an objection to a claim on the basis, in whole or in part, that the claimant’s lien is avoidable under Bankruptcy Code § 522(f)(1), and no final order has been entered on the motion to avoid the claimant’s lien, the party objecting to the claim shall notify the Judge’s Courtroom Deputy of the claim objection at the time the claim objection is filed.

**L.R. 4004-1 - Discharge.**

**A. Discharge in Chapter 12 Cases.**

1. **General Provisions.** As soon as practicable after completion by the debtor of all payments under the plan, the debtor shall file a motion requesting a discharge. The debtor shall serve the motion on the Trustee and all creditors and parties in interest.
2. **Certification of Payment of DSOs as a Condition for Discharge - Chapter 12.** As a prerequisite for the Court to issue the discharge in a Chapter 12 case filed on or after October 17, 2005, the debtor shall certify either (1) that all amounts payable under a domestic support obligation order have been paid through the date of the debtor’s certification or (2) that the debtor does not owe any domestic support obligations. The debtor shall file this certification prior to or as part of the debtor’s motion for discharge. If the certification has not been filed as part of or prior to the motion for discharge, on receipt of the motion, the Court will issue a notice to the debtor advising that the certification shall be filed within 14 days of the notice or the Court may close the case without entry of a discharge.

**B. Discharge in Chapter 7, 11 and 13 Cases.**

1. **General Provisions.** In Chapter 7 and 13 cases, provided a discharge is appropriate, the Court will issue and serve the discharge order without the debtor filing a motion for

discharge. In Chapter 11 cases, subject to L.R. 4004-1(C), the discharge provision shall be as specified in the confirmed Chapter 11 plan.

2. **Certification of Payment of DSOs as a Condition for Discharge - Chapter 13.** As a prerequisite for the Court to issue the discharge in a Chapter 13 case filed on or after October 17, 2005, the debtor shall certify either (1) that all amounts payable under a domestic support obligation order have been paid through the date of the debtor's certification or (2) that the debtor does not owe any domestic support obligations. In a Chapter 13 case, on receipt of the Trustee's Motion to Stop Wage Withholding and Return Excess Funds, the Court will issue a notice to the debtor advising that the certification shall be filed within 21 days of the date of the Court's notice. If the certification is not timely filed, the Court may close the case without entering a discharge.

- C. **Notice Regarding Bankruptcy Code § 1141(d)(5)(C).** Before a discharge may be entered in an individual's Chapter 11 case filed on or after April 20, 2005, the debtor shall send a notice regarding Bankruptcy Code § 1141(d)(5)(C) to the L.R. 9013-3(D) Master Service List or on those who would be on such a list. This notice is to be filed with the Court. The notice will set a 14-day deadline for any interested party to file a response to the notice and request a hearing if the party has reasonable cause to believe that (i) Bankruptcy Code § 522(q)(1) is applicable to the debtor; and (ii) that there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in Bankruptcy Code § 522(q)(1)(A) or liable for a debt of the kind described in Bankruptcy Code § 522(q)(1)(B). If no response to the notice is filed on or before the expiration of the 14-day deadline, the Court may enter a discharge without further notice or hearing regarding Bankruptcy Code § 1141(d)(5)(C).

**L.R. 4004-2 - Post-Petition Personal Financial Management.**

- A. **General Provisions.** In a case filed on or after October 17, 2005, pursuant to Bankruptcy Code §§ 727(a)(11) and 1328(g), the Court will not grant a discharge but will close a case without discharge in Chapter 7 and Chapter 13 cases if the debtor fails to file a certificate of completing the financial management course required by Bankruptcy Code § 111. The Court will send notice to the debtor in advance of the filing deadline provided in the Federal Rules of Bankruptcy Procedure advising the debtor that the case may be closed without discharge if the certificate of completion of a financial management course is not filed.
- B. **Relief from Dismissal Order.** If, after the Court sends the notice described in L.R. 4004-2(A), a case has been closed without discharge for failure to file a certificate of completing the financial management course, the debtor shall not move this Court for any type of relief from the closing of the case (including a motion to reconsider) without first paying the case reopening fee.
- C. **Proof of Completion.** Completion of a financial management course shall be shown by each debtor, either by filing Official Form 23, or by filing one or more certificates. If a single Form 23 is filed for both debtors in a joint case, the Form shall include the names and signatures of both debtors.

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- D. **Exemption.** Exemption from this requirement may be shown by checking the appropriate box on Official Form 23 and filing Form 23. A separate motion is not necessary when exemption is sought using Form 23.
- E. **Filing.** The debtor's certification of completion of financial management course or the debtor's exemption shall be filed using the "Financial Management Course" event.

**L.R. 4004-3 - Closing of Case without Discharge.** If a case is closed without a discharge, the Court will give notice of such closing to all creditors and parties in interest as required by the Federal Rules of Bankruptcy Procedure. A debtor may move to reopen a case closed without issuance of discharge in order to file or provide a required document. A reopening fee shall be paid to reopen the case to obtain discharge. The Court will not consider any motion requesting that the Court reopen a case or reconsider any closure of a case without discharge for failure to provide or file a required document unless the movant has paid the case reopening fee.

**L.R. 4004-4 - Prior Discharge and Delay of Discharge.**

- A. **Chapter 13 Cases.** In Chapter 13 cases, the Trustee may object to confirmation of the Chapter 13 Plan if the debtor obtained a discharge in a prior case within the time periods that prohibit the Court from granting a discharge under Bankruptcy Code §§ 1328(f)(1) or (2). Nothing precludes a party in interest from filing such an objection to confirmation.
- B. **Delay of Discharge in all Cases.** Any request to delay discharge under Bankruptcy Code §§ 727(a)(12), 1228(f), 1328(h), or 1141(d)(5)(C) shall be filed by motion using the "Motion to Delay Discharge" event.

**L.R. 4008 - Reaffirmation Agreements.** The Court will set a hearing to consider approval of those reaffirmation agreements that do not include the signature of the debtor's attorney where Court action on the reaffirmation agreement is required. A request to approve a reaffirmation agreement that does not include the signature of the debtor's attorney shall be presented by motion. A motion seeking approval of a reaffirmation agreement shall be filed using the "Reaffirmation Agreement and Motion to Approve" event. The Court will set a hearing on such reaffirmation agreement.

**PART V. COURT AND CLERK'S OFFICE OPERATIONS**

**L.R. 5005 - Filing and Transmittal of Papers.**

- A. **Electronic Filing.** All documents filed by an attorney shall be filed electronically in accordance with the procedures for electronic case filing set forth in the Procedures Manual. If the deadline to file a document occurs, or a party must file an emergency motion while the Court's CM/ECF system is shut down, the attorney filer may file the document by paper following the procedures set forth in these Rules and the Procedures Manual for paper filing by unrepresented parties. The attorney filer may, in such an instance, seek any further relief by separate motion.

- B. **Consent to Electronic Service and Effect of Notice.** With the exception of service of process under Fed. R. Bankr. P. 7004 and where otherwise required on a party's registered agent, registration to file electronically constitutes the participant's consent to receive notice and service by electronic means and is a written waiver of service by other means (e.g. first class mail). For registered participants, with the exception of service of process under Fed. R. Bankr. P. 7004 and where otherwise required on a party's registered agent, notice through the Court's CM/ECF system constitutes service of the documents referenced in the Notice of Electronic Filing.
- C. **Location, Place and Manner of Filing.** All documents offered for filing by a party that is not represented by an attorney and that is unable to file using the CM/ECF system in a case in the United States Bankruptcy Court for the Eastern District of Missouri (Eastern, Northern or Southeastern Division) shall be submitted to the Clerk of Court's Office in St. Louis for filing. Filing by facsimile is prohibited.
- D. **Documents Declined for Filing.** The Clerk of Court shall decline to accept for filing any pleading, petition, or document tendered without the required fees or signatures. Required signatures include:
1. The signature of an attorney or pro se party on any document and pleading filed with the Court.
  2. The signature of an attorney on any document requiring such signature.
  3. The signature of a petition preparer on any document requiring such signature .
  4. The signature of the debtor(s)\* on the following documents:
    - Voluntary Petition
    - Corporate or Partnership Declaration regarding Petition
    - Verification of Creditor Matrix
    - Declaration concerning Schedules or any Amendment thereto
    - Statement of Financial Affairs or any Amendment thereto
    - Application to Pay Filing Fee in Installments or Application for Waiver of Filing Fee
    - Chapter 7 Individual Debtor's Statement of Intention
    - Reaffirmation Agreement
    - All plans (Chapter 12, 11, 13) and amendments thereto unless debtor(s)' signature is excused by the Court
    - Involuntary Petition (original signature of Petitioning Creditors)
    - Social Security Number Verification Form (Official Form B21)
    - Means Test, Statement of Current Monthly Income, Disposable Income Calculation Forms, as applicable (Official Forms 22A, B, and C)
- \* In a joint case, the signature of both debtors is required.

The Clerk of Court shall mark the date and time tendered on the original document and shall return the original document to the filer with a written notice of return. The Clerk of Court shall retain a photocopy of the original document bearing the date and time of its tender. In the case of a petition, the Court may promptly dismiss the case if the petition fails to comply with L.R. 1002(A). The party that tenders any petition or other document declined for filing may, upon



motion for good cause, request that the Court treat the petition or other document as filed on the date originally tendered to the Court.

**L.R. 5009 - Closing Procedures.**

- A. **Closing Procedures in Chapter 12 Cases.** The Trustee shall file the Trustee's final report and final account in substantial conformity with Local Form 17 and submit a copy to the United States Trustee. The Trustee shall send notice of filing the final report or a copy of the final report to the debtor, the debtor's attorney (if any), and all creditors and parties in interest with notice that any objections to the report shall be filed with the Court no later than 30 days after service of the final report. The final report shall state that the estate has been fully administered. If no objections are filed, the Court will issue a final decree and close the case. Any objections to the final report shall be served on the Trustee, the debtor, the debtor's attorney (if any), and the United States Trustee. If objections are filed, the Trustee shall contact the Courtroom Deputy to set the final report for hearing and serve notice of the hearing on all parties filing an objection to the final report, the debtor, the debtor's attorney (if any), and the United States Trustee.
- B. **Closing Procedures in Chapter 7 Cases.** In a Chapter 7 asset case, the Trustee shall cause to be filed the Trustee's final report and proposed distribution and shall send notice of the filing and a summary of the final report or a copy of the final report to the debtor, the debtor's attorney (if any), and all creditors and parties in interest (as may be required under Fed. R. Bankr. P. 2002(f)(8)) with notice that any objections to the report shall be filed with the Court no later than 30 days after service. Any objections to the final report shall be served on the Trustee, the debtor, the debtor's attorney (if any), and the United States Trustee. If objections are filed, the Trustee shall contact the Courtroom Deputy to set the final report for hearing and serve notice of hearing on all parties filing an objection to the final report, the debtor, the debtor's attorney (if any), and the United States Trustee. If no objections to the final report are filed, or on resolution of any objections, the Trustee shall submit an order approving the final report and proposed distribution. After distribution, the Trustee shall cause to be filed a post-distribution report and certify full administration of the estate. In a Chapter 7 no-asset case, the Trustee shall file a report of no distribution and certify full administration of the estate. Following notice of full administration, the Court shall issue a final decree and close the case.
- C. **Closing Procedures in Chapter 13 Cases.** The Trustee shall file the Trustee's final report and final account and shall send a copy of the final report to the debtor and the debtor's attorney (if any) with notice that any objections to the report shall be filed with the Court no later than 30 days after service of the report. The final report shall state that the estate has been fully administered. If no objections are filed, the Court will issue a final decree and close the case. Any objections to the final report shall be served on the Trustee, the debtor, and the debtor's attorney (if any). If objections are filed, the Trustee shall contact the Courtroom Deputy to set the final report for hearing and serve notice of hearing on all parties filing an objection to the final report, the debtor, and the debtor's attorney (if any).
- D. **Closing Procedures in Chapter 11 Cases.** See L.R. 3022.

**L.R. 5011 - Withdrawal of Reference.**

- A. **Time and Manner.** A request to withdraw the reference of a case or proceeding, in whole or in part, other than a sua sponte request by the judge, shall be by motion. Absent leave of Court, a party filing a motion to withdraw the reference shall file the motion within 7 days of the filing of the related pleading or response.
- B. **Response.** No later than 7 days after service of the motion to withdraw the reference, any other party may file and serve a response to such motion.
- C. **Place of Filing and Controlling Rules.** A motion to withdraw the reference and all documents relating to the motion, including any responses thereto, shall be filed with the Bankruptcy Court in the bankruptcy case or adversary proceeding in which reference is sought to be withdrawn using the caption of that bankruptcy case or adversary proceeding. The Clerk of Court will transmit the motion to withdraw the reference and all documents filed relating to the motion to the District Court. This Rule and the Local Rules of the United States District Court for the Eastern District of Missouri regarding motion practice and bankruptcy court matters shall govern the motion to withdraw the reference and all proceedings related thereto.

**PART VI. COLLECTION AND LIQUIDATION OF THE ESTATE**

**L.R. 6007 - Abandonment of Assets at the § 341 Meeting.** At the § 341 Meeting in Chapter 7 cases, the Trustee may announce the abandonment of specific property of the estate that is burdensome or of inconsequential value. The Trustee shall file a list of such property in the Trustee's § 341 Meeting minute report or a notice of abandonment. The Trustee's report shall constitute notice of abandonment of all assets referenced therein. Objections to the proposed abandonment shall be filed with the Clerk of Court no later than 14 days after filing of the Trustee's report. The objecting party shall serve a copy of the objection on the Trustee, the debtor, and the debtor's attorney (if any). The objecting party shall set the objection for hearing and shall serve notice thereof on the Trustee, the debtor, and the debtor's attorney (if any). If no timely objection is made to a notice of abandonment of assets, the notice of abandonment will constitute an abandonment of the assets effective on the 15<sup>th</sup> day after the filing of the notice.

**PART VII. ADVERSARY PROCEEDINGS AND JUDGMENTS**

**L.R. 7003 - Commencement of Adversary Proceedings.**

- A. **Cover Sheet.** An "Adversary Proceeding Cover Sheet" (Local Form 18) shall accompany all adversary complaints. This cover sheet is available on the Court's web site.
- B. **Filing Fee.** Payment of the filing fee as stated in the Procedures Manual is required to initiate an adversary proceeding.
- C. **Caption.** The caption of all pleadings filed in an adversary proceeding shall follow the specifications in L.R. 9004(A).

**L.R. 7004 - Summons.**

- A. **Issuance.** The Court will electronically sign, seal, and issue summonses. Plaintiffs need not submit a summons when filing an adversary complaint. Attorneys will receive the summons by e-mail of the Notice of Electronic Filing generated by the Court's CM/ECF system. The Court will mail the summons to any pro se plaintiff.
- B. **Service of Summons.** The plaintiff shall serve the summons as required by Fed. R. Bankr. P. 7004(a)-7004(h). The plaintiff shall file a certificate of service of the summons at least 14 days before the hearing date on the summons. The reverse side of the summons contains the certificate of service. A summons is only valid for 14 days following its issuance (Fed. R. Bank. P. 7004(e)). If the 14-day period has passed without the summons being served, the plaintiff shall file a motion requesting that the summons be reissued.

**L.R. 7016 - Pre-trial Procedures.**

- A. **Duty to Exchange Witness and Exhibit Lists, and Exhibits.** Parties to an adversary proceeding shall cooperate with one another and shall voluntarily exchange witness and exhibit lists, and exhibits no later than 14 days prior to trial, or as set out in a pre-trial or trial order. The plaintiff shall mark exhibits with Arabic numerals. The defendant shall use letters. Exhibits shall be indexed following the format of the Court's Exhibit Index (Local Form 20). No later than 72 hours prior to trial, each party shall deliver to the Court sufficient copies of the exhibits in binders to provide a set for the Court and the law clerk. Parties shall bring additional binders for the witness and opposing counsel on the day of trial.
- B. **Objections to Exhibits.** Objections to the authenticity or genuineness of any document shall be made in writing no later than 72 hours prior to trial. Failure to object to the authenticity or genuineness of a document does not waive any right to object on the basis of relevance at trial.
- C. **Duty to Confer and Settlement Conference.** Unless a pre-trial order directs otherwise, the parties to an adversary proceeding shall discuss the possibilities of settlement no later than 14 days after an answer or other response is filed. The plaintiff shall promptly file and serve a report advising that the parties conducted such a settlement conference and whether the case is settled. (Local Form 21).

**L.R. 7026 - Discovery.**

- A. **Discovery to Begin Promptly.** Discovery in an adversary proceeding shall begin at the earliest possible time. The parties shall not wait until the scheduling conference to begin discovery.
- B. **Required Disclosures.** Adherence to L.R. 7016(A) constitutes compliance with Fed. R. Civ. P. 26(a)(1) and (2), and E.D.Mo.L.R 26-3.01.
- C. **Filing of Discovery Materials.** Local Rule 3.02 of the United States District Court for the Eastern District of Missouri shall apply as modified herein. Discovery requests and responses and any disclosures required under Fed. R. Civ. P. 26, 30, 31, 33, 34, 35 and 36 shall not be filed with the Court except as exhibits to a motion or memorandum and then only as permitted by L.R. 7056 and 9040. At the time of service of discovery requests or responses, the party issuing the

discovery or responding to it shall file a certificate of service advising that the discovery has been served or answered. No deposition transcript shall be filed until admitted into evidence at trial. If deposition testimony is needed to support any pleading, a copy of the relevant excerpts shall be attached to the motion or pleading.

- D. **Deadline for Discovery.** In all cases in which a trial (not pre-trial) summons is issued, responses to discovery shall be served no later than 21 days after service of the discovery request unless the responding party, after consultation with the party seeking the discovery, obtains additional time to respond.

**L.R. 7055 - Default Judgment.**

- A. **Clerk's Entry of Default.** A plaintiff seeking the Clerk of Court's entry of default shall follow the procedures set forth in Fed. R. Bankr. P. 7055. To obtain the Clerk of Court's entry of default, the Court requires the filing of the following:

1. Request for Clerk of Court's entry of default;
2. Affidavit\* supporting entitlement to entry of default; and
3. Procedural Form B260 (found through the link to Official Forms on the Court's web site) for entry of default.

\* The affidavit shall contain:

- a. Date of issuance of summons;
- b. Statement of whether the Court fixed a deadline for filing an answer or motion, or whether the 30 or 35 day limit applies;
- c. Date of service of the complaint;
- d. Date of filing of affidavit or return of service;
- e. Statement that no answer or motion has been received within the time limit fixed by the Court;
- f. Statement that the defendant is not in the military service (as required by the Soldier's & Sailor's Civil Relief Act, 50 U.S.C. App. § 521); and
- g. Statement that the defendant is not an infant or an incompetent as required by Fed. R. Civ. P. 55(b)(1)).

If the plaintiff is entitled to entry of default, the Clerk of Court's office will complete the entry of default and return a copy of the entry of default to the plaintiff.

- B. **Motion for Default Judgment.** Any motion for default judgment shall be accompanied by (1) the Clerk of Court's entry of default using Procedural Form B260 (found through the link to Official Forms on the Court's web site), and (2) an affidavit in support of the motion. The plaintiff filing the motion for default shall submit a proposed order via Judge's e-mail (see the Procedures Manual for the Judges' e-mail addresses) at the time the motion is filed. The affidavit in support of the motion shall contain the following:

1. date of issuance of the summons;
2. statement of whether the Court fixed a deadline for filing an answer or motion, or whether the 30 or 35-day limit applies;
3. date of service of the complaint;
4. date of filing of affidavit or return of service;

***L.R. 7056***

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5. statement that the defendant is not in the military service (as required by the Soldier's and Sailor's Civil Relief Act, 50 U.S.C. App. § 521);
6. statement that the defendant is not an infant or incompetent (as required by Fed. R. Civ. P. 55(b)(1)); and
7. other factual and legal elements necessary to support entry of judgment.

- C. **Service of Motion for Default Judgment.** The movant shall serve the motion for default judgment on the party against whom default is requested.
- D. **Hearing on Motion for Default Judgment.** At the time of filing a motion for default judgment, the movant shall set the motion for a hearing to take place after the motion's return date and serve notice of the hearing on the party against whom default is requested. The movant shall attend the hearing and be prepared to offer evidence in support of the judgment.

**L.R. 7056 - Motions for Summary Judgment.**

- A. **Motion for Summary Judgment.** Consistent with Federal Rule of Civil Procedure 56(c), a motion for summary judgment shall state with particularity, in separately numbered paragraphs, each material fact as to which the movant claims there is no genuine issue. Each such paragraph shall reference the pleading, discovery, affidavit or document that supports such fact. If the motion requires consideration of facts not appearing in the record, the party shall file all documentary evidence on which the party relies, including affidavits, as an attachment to the motion. The motion shall not refer to material facts not presented as evidence in support of the motion. The motion shall also state concisely the legal grounds on which relief should be granted.
- B. **Memorandum in Support.** The moving party shall file with each motion for summary judgment a memorandum in support of the motion, including citations to any authorities on which the party relies.
- C. **Responses.** Consistent with Fed. R. Civ. P. 56(c), each party opposing a motion for summary judgment shall file a response specifically admitting or denying each of the movant's factual statements. The response shall include the reason for denial of any factual allegation and shall be supported by reference to the pleadings, discovery, affidavits or documents that support respondent's denial. The response shall further list in numbered paragraphs any additional facts that remain in dispute and those facts shall be supported by reference to the pleadings, discovery, affidavits or documents that support the respondent's allegations. If any response requires consideration of facts not appearing in the record, the party shall file with its response all documentary evidence on which the party relies, including affidavits, if applicable.
- D. **Memorandum in Opposition.** The respondent shall also file a memorandum in support of the response, including citations to authorities on which the respondent relies.
- E. **Response Time.** The response and memorandum shall be filed no later than 21 days after the motion is served or a responsive pleading is due, whichever is later.

- F. **Page Limits.** Absent leave of Court, no pleading or memorandum regarding summary judgment shall exceed 15 numbered pages, exclusive of the signature page and attachments.
- G. **Hearings.** Motions for summary judgment will not ordinarily be set for hearing. The Court will only set such motions for hearing if the Court deems it appropriate.

## **PART VIII. APPEALS**

### **L.R. 8001 - Notice of Appeal and Election to Have Appeal Heard by District Court.**

- A. **General Requirements.** A notice of appeal shall conform substantially to Bankruptcy Official Form 17 and contain the title and date of the order appealed, the names, addresses, and phone numbers of all parties (and their attorneys, if any) to the judgment, order, or decree appealed. If the party is not represented by an attorney and is not able to file electronically, the notice of appeal shall be accompanied by a copy of the order being appealed and the filing fee (payable to the U.S. Bankruptcy Court). A separate notice of appeal and filing fee is required for each order being appealed. The filing fee and docketing fee can be found on the Court's web site. An appeal of an order denying reconsideration or similar relief may be included in the notice of appeal of the underlying judgment or order. If a party is not represented by an attorney and is not able to file electronically, the election to have the appeal heard by the District Court shall be accompanied by a copy of the notice of the appeal.
- B. **Appeals to the Bankruptcy Appellate Panel.** In an appeal to the Bankruptcy Appellate Panel, the appellant shall file with the Bankruptcy Court:
  - 1. A notice of appeal (which requires a certificate of service); and
  - 2. The filing fee.All documents filed after the notice of appeal shall be filed with the Bankruptcy Appellate Panel. The Bankruptcy Court will assemble the preliminary record on appeal and transmit it to the Bankruptcy Appellate Panel.
- C. **Appeals to the District Court.** To appeal to the District Court, the appellant shall file with the Bankruptcy Court:
  - 1. The notice of appeal (which requires a certificate of service);
  - 2. The filing fee;
  - 3. The appellant's separate election to have the appeal heard by the District Court (available in the appendix to the Bankruptcy Appellate Panel's Local Rules);
  - 4. The U.S. District Court cover sheet (available on the Bankruptcy Court's web site or the District Court's web site); and
  - 5. The party's designation of record and issues on appeal.In an appeal to the District Court, unless otherwise designated, all pleadings and documents referenced in Fed. R. Bankr. P. 8006 and 8007 shall be filed with the Bankruptcy Court. The Clerk of Court shall transmit the record to the District Court. After transmission of the record to the District Court, all pleadings in the appeal shall be filed with the District Court.
- D. **Direct Appeal to the Circuit Court**

To appeal directly to the Circuit Court of Appeals from the Bankruptcy Court, the appellant must file with the Bankruptcy Court:

1. The notice of appeal (which requires a certificate of service);
2. A Notice of Certification of Direct Appeal using Bankruptcy Official Form 24; and
3. The filing fee.

If the direct appeal is authorized by the Circuit Court of Appeals, all documents filed after such authorization shall be filed with the Circuit Court of Appeals.

## **PART IX. FORMAT OF FILINGS, MOTION PRACTICE, GENERAL PROVISIONS**

### **L.R. 9004 - Format and Title of Filings.**

A. **Captions.** All filings and proposed orders shall include a caption identifying this Court and the appropriate division and shall contain the following information set forth on the top right-hand side of the page:

1. case number with judge code (for all filings after the Court has assigned a case number);
2. chapter (7, 9, 11, 12, 13, or 15);
3. adversary proceeding or motion number (for all filings after the Court has assigned the motion or adversary number);
4. current hearing date, time, and location (city and courtroom); and
5. date any response must be filed, if applicable.

The top left-hand side of the page of all filings and proposed orders shall include the name of the debtor. All filings and orders concerning motions shall also list the name of the movant and respondent on the top left, and filings and orders in adversary proceedings shall list the name of the plaintiff and the defendant. (Local Form 22, Sample Caption).

B. **Title of Filings.** All filings shall bear a descriptive title accurately stating the nature of the relief sought. If alternative relief is requested, the title shall reflect the alternative relief.

C. **Format of Filings.** Unless otherwise permitted by leave of Court, all petitions and other documents shall be typed or legibly written on paper 8-1/2 inches by 11 inches. Margins shall be no less than 1 inch and all documents shall be printed on one side only of a sheet of paper using standard, 12-point font. Copies of documents served on parties may be printed on both sides of a sheet of paper for convenience. Parties are encouraged to use binders to organize pleadings and exhibits for courtroom presentations. Without leave of Court, no motion, memorandum or brief shall exceed 15 pages exclusive of the signature page, certificate of service and attachments. Except for memoranda of law, all factual and legal allegations in any pleading shall be set forth in separately numbered paragraphs.

D. **Certificates of Service.** All filings shall include a certificate of service identifying (i) each person or entity served with the filing; and (ii) the date and manner of service.

1. **CM/ECF Service.** If the Notice of Electronic Filing that is generated upon completion of an electronic filing indicates that a party was served with the document by the Court's CM/ECF system, the filing party does not need to serve the document by any other means on the party that is shown as having received the document by the CM/ECF system. The filing party does not need to list on the certificate of service the parties that were served via the CM/ECF system. The filing party need only include in the certificate of service

a statement in substantial conformity with the following: “In addition to those parties served with this document by the Court’s CM/ECF system, the undersigned served a true and complete copy of this document by first class mail or other means as indicated on each of the parties at the addresses listed below.” If the Notice of Electronic Filing indicates that all necessary parties were served with the document via the CM/ECF system, the filing party need only include in the certificate of service a statement in substantial conformity with the following: “The Notice of Electronic Filing indicates that all necessary parties were served with this document via the Court’s CM/ECF system.”

2. **Parties not served by CM/ECF.** Unless otherwise provided in these Rules (e.g., L.R. 9013-3(F) for Chapter 11 cases), names and addresses shall be included in the certificate of service for those parties that the Notice of Electronic Filing does not indicate received the filed document by the CM/ECF system. Failure to identify these parties’ names and addresses in the certificate of service is grounds for denial of the relief sought by the underlying document. For these purposes, it is insufficient to state that a filing was served “on all parties on the matrix” or “on all parties in interest,” or to use other similar perfunctory phrases.
3. **Time and Manner of Filing.** Attorneys can identify in advance of filing a document which parties will receive electronic service in any particular case by accessing the “Mailings” option under “Utilities,” and, specifically, the “Mailings Information for a Case” feature. The certificate of service may, however, be filed separately from the underlying document. The certificate of service shall be filed within 24 hours of the underlying document’s filing. The underlying document shall still be served at the same time the underlying document is filed. Failure to timely file the certificate of service is grounds for denial of the relief sought by the underlying document.

**L.R. 9006 - Requests for Extension of Time.** All requests for extension of time shall be filed prior to expiration of the time permitted to complete the act for which additional time is sought. The request shall be made by written motion and shall be served as required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and these Rules. The movant shall:

1. indicate in the motion if the request is by consent of the other parties;
2. indicate in the motion whether prior extensions have been granted;
3. indicate in the motion the reason for the request for additional time;
4. provide in the motion a date certain for the extended deadline; and
5. submit a proposed order via the Judge’s e-mail address as required by L.R. 9050.

**L.R. 9010 - Appearance without Attorney - Corporations or Other Business Entities.** A corporation, partnership, trust or other business entity, other than a sole proprietorship, may appear and act without counsel in a case or proceeding before this Court only for the purpose of attending the § 341 Meeting, filing a request for notice and service of documents, and filing a proof of claim or ballot. For all other purposes, such entity shall appear and act only through an attorney.

**L.R. 9011 - Signatures.**

- A. **General.** All documents filed by a party that is not represented by an attorney and is not able to file electronically shall contain the original signature of the party where appropriate. Every



pleading or document, except for Official Forms or accompanying Directors Forms, that are filed shall include the following information, as relevant, for the party filing the document: the law firm name, attorney's or debtor's name, address, telephone number, fax number, e-mail address, and registration number for the United States District Court for the Eastern District of Missouri. Except for electronically filed proofs of claim, the user login and password required to file documents via the Court's CM/ECF system shall serve as the filing user's signature on all electronic documents filed with the Court for the purposes of this Rule and Fed. R. Bankr. P. 9011. Electronically filed proofs of claim must contain the signer's typed 'signature' on the signature line unless the document has been scanned and contains an image of the signer's handwritten signature. A party appearing pro se (without an attorney) may not sign a document on behalf of another party except as set forth in L.R. 9011(B). The filing or submission by an attorney of a document required to be signed by another person is the filer's representation that the party whose signature is required has, in fact, signed the document. Nothing in this rule shall be construed as excusing any party from providing any of the information or signatures required by the Official Forms or accompanying Director's Forms.

- B. **Filing in Representative Capacity.** Any document filed in a legal representative capacity for another shall have attached to it the document providing signature authority unless such document has previously been filed with the Court. Later filings under the authority of such document shall reference the initial pleading or document to which the authorization was attached. This subsection shall not apply to members of the same law firm or to attorneys signing pleadings for their clients or for another party's attorney by permission.
- C. **Retention.** The person filing or submitting any document required to be signed by the debtor or by other entity(ies) shall retain the original signed document for a period of 2 years after the closing of the case unless the Court orders a different period. Proofs of claim that have been created and filed through the Court's Electronic Proof of Claim system pursuant to L.R. 9011(D) shall be exempt from this retention requirement. Documents subject to the requirements of this subsection include those signed under penalty of perjury, those requiring verification under Fed. R. Bankr. P. 1008, and those containing an unsworn declaration as provided in 28 U.S.C. § 1746. On request of the Court, or any party in interest, or when the signature is at issue, the filer shall provide the original signed document for review.
- D. **Electronic Proof of Claim System ("ePOC").** The filing of a proof of claim and/or the filing of a claims-related document using the Court's ePOC system shall constitute the filing claimant's approved signature by law, and the provisions of 18 U.S.C. § 152 shall apply to such filing.

**L.R. 9013-1 - Motion Practice.**

- A. **Service of Motions and Responses.** In all cases except Chapter 11 cases, unless otherwise ordered by the Court, and subject to L.R. 9004(D)(1), all motions, applications or other pleadings and responses thereto shall be served on:
  - 1. the debtor and the debtor's attorney (if any);
  - 2. all parties directly affected by the relief sought;
  - 3. the Trustee; and
  - 4. all parties who have filed a request for notice.

In Chapter 13 cases, motions by parties other than the Trustee, shall also be served on all creditors who have filed a proof of claim. In Chapter 11 cases, motions shall be served in accordance with L.R. 9013-3(E) if a Master Service List exists in the case. If no Master Service List exists in a Chapter 11 case, motions, applications, or other pleadings shall be served on those who would be on such a list, and on any entity whose interest may be affected by the motion, application, or pleading. A person or entity who has filed an entry of appearance, a request to receive notice, and/or a proof of claim shall be determined by reference to the Court's records at the time the motion is served.

- B. **Response Deadline.** Any entity intending to oppose a motion, application or other pleading shall file a written response. Unless otherwise specified, if the matter is set for hearing, any response shall be filed no later than 7 days before the date of hearing. If the matter will be heard on Negative Notice, the response time is governed by L.R. 9061(B). If the matter is one that may be determined without hearing under L.R. 9062, any response shall be filed immediately. Any response shall be served on the movant or applicant and all creditors and parties in interest as directed by L.R. 9013-1(A).
- C. **Prohibition of General Denials.** Each response shall specifically answer the allegations in the related motion. A general denial is insufficient and prohibited.
- D. **Failure to File Responsive Pleading.** If a response is not timely filed, the Court may enter an order granting the relief requested prior to hearing and may remove the motion or application from the Court calendar unless leave to file a late response is granted. If the respondent appears at the hearing but has failed to file a timely response, the Court may continue the hearing. The respondent shall immediately provide the movant with written and electronic (i.e. facsimile or e-mail, but not only telephonic) notice of the continued hearing and shall file a certificate of service of such notice.
- E. **Memoranda of Law.** Unless otherwise directed by the Court, or in the case of a Motion for Summary Judgment made pursuant to L.R. 7056, a memorandum of law is not required in support of a motion. If a memorandum is filed, it shall be filed with the motion or at the latest, no later than 7 days prior to hearing. Without leave of Court, no memorandum shall exceed 15 pages, exclusive of the signature page, certificate of service and attachments.
- F. **Consent Motions.** The Court may grant a consent motion if the party or counsel filing the motion represents that consent to the motion has been obtained from all necessary parties. Consent motions need not be set for hearing and may be ruled on without hearing. The title of a consent motion shall state that the motion is by consent.

**L.R. 9013-2 - Expedited or Emergency Matters.**

- A. **Motion For Expedited or Emergency Hearing.** A request for hearing on an expedited or emergency basis shall be made by written motion, setting forth the reason the matter should be considered on an expedited or emergency basis. The movant shall contact the Courtroom Deputy to obtain a hearing date and time. "Expedited basis" or "emergency basis" is defined as any

hearing to be held less than 14 days after the filing of the motion on which the hearing is requested.

- B. **Response to Expedited or Emergency Matters.** A response to a motion or application set on an expedited or emergency basis and to the motion seeking expedited or emergency hearing may be filed until the date of the hearing. The respondent shall serve the response(s) on the opposing counsel or party as soon as possible and shall file the response(s) with the Court and fax a copy thereof to the assigned Courtroom Deputy. The fax copy shall not be considered a document “filed” with the Court within the meaning of L.R. 5005.
- C. **Expedited or Emergency Hearings on Motions for Relief from the Automatic Stay.** The Court ordinarily will consider motions for relief from the automatic stay on an expedited or emergency basis only if the movant alleges:
  - 1. lack of insurance on the subject collateral;
  - 2. pendency of a published or scheduled foreclosure; or
  - 3. other good cause.
- D. **Ex Parte Motions for Relief from the Automatic Stay.** Ex parte relief from the automatic stay shall be requested following the procedures in Fed. R. Bankr. P. 4001(a)(2).

**L.R. 9013-3 - Chapter 11 Case Administration.**

- A. **First Day Matters in Chapter 11 Cases.**
  - 1. **General Provisions.** The Court will typically entertain first day matters within 48 hours of filing. The movant shall contact the Clerk of Court prior to filing the case to schedule first day matters for hearing. Refer to the Procedures Manual for matters that are typically considered first day matters. The movant shall give notice of first day matters to the L.R. 9013-3(D) Master Service List or to those who would be on such a list, and to those who may be affected by the matter. To properly gather statistical information concerning Chapter 11 first day motions, first day motions shall be filed using designated Motion/Application events within the CM/ECF system. Three specific first day motions have descriptively titled events and shall be filed using those events: (1) “Application to Employ,” (2) “Motion to Use Cash Collateral,” and (3) “Motion for Continuation of Utility Service/Adequate Assurance of Payment Under Sec. 366.” Other first day motions shall be filed using the “Chapter 11 First Day Motion” event. A description of the motions shall be typed into the available text box.
  - 2. **Coordination with United States Trustee.** A Chapter 11 debtor shall, where practical, give the United States Trustee at least 24 hours notice prior to the filing of any petition or first day motion of the nature of the case, the nature of the relief to be sought, and the proposed timing of the hearing. The Chapter 11 debtor shall also, where practical, provide the United States Trustee with private courtesy copies of drafts of all such motions or the petition as soon as they are in substantially final form. The United States Trustee shall keep such advance notice and documents confidential until the motion or petition has been filed.

- B. **Initial Debtor Interview in Chapter 11 Cases.** Promptly upon, or as soon as possible prior to the filing of a Chapter 11 case, the debtor (if not represented by an attorney) or the debtor's attorney shall contact the Office of the United States Trustee to schedule the 341 Meeting, and arrange for an initial debtor interview. The debtor and the debtor's attorney, if any, shall review the United States Trustee's requirements and role in administering a Chapter 11 case. This information is in the Procedures Manual.
- C. **Regular Hearing Dates and Agenda.** The Court may establish Regular Hearing Dates for a Chapter 11 case. Such dates shall be noted on the Court's calendar and may be accessed by interested persons by contacting the Court, viewing the case calendar on the Court's web site, and by contacting counsel for the debtor. Unless otherwise directed, all motions in the designated Chapter 11 case will be scheduled for hearing on the Regular Hearing Date. 48 hours prior to each Regular Hearing Date, the debtor shall contact the Courtroom Deputy to establish a hearing agenda.
- D. **Master Service and Notice Lists.** The debtor should maintain a Master Service and Master Notice List containing the names and addresses specified herein. The debtor shall update the lists as necessary, but not less than monthly and shall file the updated list with the Court, identifying the list by date.
1. **Master Service List.** The Master Service List shall contain the names and addresses of:
    - a. the debtor;
    - b. counsel for the debtor;
    - c. counsel for primary secured lenders;
    - d. counsel for any official committees;
    - e. the United States Trustee;
    - f. the Trustee (if any) and the Trustee's counsel; and
    - g. any examiner in the case.In the event an official unsecured creditors' committee is not appointed, the names and addresses of the 20 largest unsecured creditors shall be on the Master Service List. A party may request to be added to the Master Service List by motion served on all parties identified in this paragraph and any entity requesting notice.
  2. **Master Notice List.** The Master Notice List shall contain the names and addresses of all persons on the Master Service List plus any persons or entities that have requested notice in the case.
- E. **Service of Motions and Notices.** Unless otherwise directed by the Court, when Master Service and Notice Lists are designated for use in a Chapter 11 case pursuant to L.R. 9013-3(D):
1. The movant or applicant shall serve a complete copy of the motion, application, or pleading on the Master Service List and on any entity whose interest may be affected by the motion, application, or pleading.
  2. The movant or applicant shall serve a notice of hearing and/or notice of the motion, application, or pleading on all parties on the Master Notice List. Notices required by Fed. R. Bankr. P. 2002(a)(2), (3), (6), and 4001 shall be served on the Master Notice List. All notices of hearing served pursuant to this paragraph shall include a description of the relief requested in the motion, application or pleading.

3. Notices required by Fed. R. Bankr. P. 2002(a)(1), (4), (5), (7), (b), and (f) shall be served as specified on all creditors and parties in interest.

F. **Certificate of Service.** When Master Service and Notice Lists are designated for use in a Chapter 11 case, the certificate of service for any document may list the date and number of the Master Service List or Master Notice List instead of listing the names and addresses of each person served. The Master Service List or Master Notice List shall not be filed with or attached to the document served or the certificate of service. The certificate of service shall state that all parties on the Master Service List or Master Notice List have been physically served with the underlying document by the filer or have been identified by the Court's CM/ECF system as having received the document via the CM/ECF system.

**L.R. 9015 - Jury Trials.**

A. **General Provisions.** A party claiming a right to a jury trial shall make a demand as specified in L.R. 9015(B). The parties or their attorneys of record, by written stipulation filed with the Court, by oral stipulation made in open court and entered in the record, or as otherwise provided in L.R. 9015(B) may consent to trial by the Court sitting without a jury of matters that may, of right, be tried by a jury.

B. **Jury Demand and Withdrawal of Reference.**

1. **Time, Form, and Consent.** Any party may demand a jury trial as provided in Fed. R. Civ. P. 38(b) and E.D.Mo.L.R. 2.04. Such demand shall include a statement that the party does or does not consent to a jury trial conducted by the Bankruptcy Court. Within 14 days of the service of the demand and statement of consent or non-consent, all other parties shall file and serve a statement of consent or non-consent to a jury trial conducted by the Bankruptcy Court.
2. **Specification of Issues.** In a jury trial demand, a party may specify the issues which that party wishes to be tried by a jury. Otherwise that party shall be deemed to have demanded a jury trial of all the issues so triable. If a party has demanded a jury trial of only some of the issues, any other party within 14 days after service of the jury demand or such lesser time as the Court may order, may serve a demand for a jury trial of any other or all of the issues.
3. **Determination by Court.** On motion or on its own initiative, the Court may determine whether there is a right to a jury trial of the issues for which a jury trial is demanded.
4. **Cover Sheet Insufficient.** Marking the Adversary Proceeding Cover Sheet shall not be a sufficient jury demand to comply with Fed. R. Civ. P. 38(b), E.D.Mo.L.R. 2.04, or this Rule.
5. **Waiver.** The failure of a party to file and serve a demand as required by this Rule constitutes a waiver of the right to a jury trial. A demand for a jury trial made pursuant to this Rule may not be withdrawn without the written consent of the parties and an order of the Court.

6. **Trial by the Court.** Issues not demanded to be tried by jury shall be tried by the Court. Notwithstanding the failure of a party to demand a jury trial when such a demand might have been made of right, the Court on its own initiative may order a jury trial of any or all issues.
7. **Pre-trial Procedure where Jury Trial Demanded.** Where a jury trial is demanded, all pre-trial proceedings, through approval and entry of the pre-trial order, shall be conducted by the bankruptcy judge unless otherwise ordered by the District Court.
8. **Motion for Withdrawal of the Reference in Adversary Proceeding where Jury Trial Demanded.** Any party may file and serve a motion in accordance with L.R. 5011 in the Bankruptcy Court to withdraw the reference pursuant to 28 U.S.C. § 157(d). Failure of any party to file and serve a timely motion to withdraw the reference shall be construed as consent by all parties to the bankruptcy judge presiding over the jury trial in the adversary proceeding.
9. **Right to Jury Trial.** Nothing contained in these Rules shall be deemed to create or imply a right to a jury trial where no such right exists under applicable law.

**L.R. 9016 - Subpoenas.** An attorney may issue a subpoena under Fed. R. Civ. P. 45 and Fed. R. Bankr. P. 9016. (Official Forms 254, 255, and 256)

**L.R. 9019 - Mediation.**

- A. **Choosing the Mediator.** The parties to a mediation may agree on a mediator who is not the judge presiding over their case. If the Court has ordered the mediation, the parties shall agree on a mediator within 7 days of the mediation order.
- B. **Compensation of Mediators.** The amount of compensation required to be paid to the mediator shall be determined by the mediator and parties to the mediation. A Trustee's or debtor-in-possession's share of the costs of mediation shall be an expense of the estate subject to review by the Court.
- C. **No Stay of Proceedings.** Unless otherwise ordered, referral of a proceeding to mediation does not stay discovery or other preparation for trial or final hearing.
- D. **Mediation Statements.** Any mediation statement shall not be filed with the Court.
- E. **Attendance.** The mediator shall report to the Court any willful failure to attend or participate in a Court-ordered mediation.
- F. **Mediation Report.** No later than 7 days after conclusion of a Court-ordered mediation, the mediator shall file with the Court and serve on the parties the mediator's report (Local Form 24) advising whether the matter has been resolved. In the event the matter is unresolved, the mediator shall make no further comment or recommendation concerning the matter, and the matter shall proceed as scheduled before the Court. If an agreement has been reached in any mediation, no later than 14 days after the conclusion of the mediation, the parties shall prepare, and the plaintiff

or the movant shall file a stipulation of settlement or joint motion for approval of the settlement.

- G. **Confidentiality.** Conduct or statements made in the course of mediation shall constitute “conduct or statements made in compromise negotiations” under Federal Rule of Evidence 408, and no such evidence shall be admitted or disclosed to the Court or any party to which the conduct or statements were not disclosed in the course of the mediation.

**L.R. 9037 - Privacy and Redaction of Documents.**

- A. **General Provisions.** The party filing a document is responsible for redacting any personal information of a confidential nature from any document filed. The Court and Clerk of Court will not redact documents and are not responsible for maintaining the privacy of any information filed with the Court that is not filed under seal pursuant to Court order. Existing procedures for filing documents under seal and the right of parties to file redacted documents are the appropriate methods for ensuring that personal and other confidential information is not disclosed through the Court’s system.
- B. **Redaction of Personal Identifiers.** Parties shall refrain from including, or shall partially redact, where inclusion is necessary, the following personal data identifiers from all documents and pleadings filed with the Court and/or provided to other parties, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the Court or required by statute, the Federal Rules of Bankruptcy Procedure, or the Official Bankruptcy Forms:
1. **Social Security Numbers.** If an individual’s social security number is included, only the last four digits shall appear. The full social security number is required when filing Official Form 21;
  2. **Names of minor children.** If a minor child is mentioned in a document, only the child’s initials shall appear. On Official Form 6, Schedule I, the debtor should only include the child’s relationship to the debtor and age;
  3. **Dates of birth.** If an individual’s date of birth is included, only the year shall appear. On Official Form 6, Schedule I, only the debtor’s dependants’ ages should appear; and
  4. **Financial Account Numbers.** If financial account numbers are provided, only the last four digits of these numbers shall appear.

Court employees are not responsible for, and will not redact any information. All redaction responsibilities rest solely with the filer.

**L.R. 9040 - Exhibits.**

- A. **Non-Filing of Exhibits; Use of Exhibit Summary Form.** This Rule shall not apply to exhibits and proofs of claim subject to the requirements of Fed. R. Bankr. P. 3001(c)(2) or (3), or that are to be filed as directed by any of Official Form 10’s official Attachments or Supplements. Except as provided in L.R. 9040(B), actual copies of exhibits shall not be filed with any motion, pleading, or claim. Instead, an Exhibit Summary (Local Form 9) shall be attached to the motion, pleading, or claim. The Exhibit Summary shall describe the exhibits in sufficient detail to permit the Court and parties to evaluate the factual elements relevant to the motion, pleading, or claim. The description shall include the following, when applicable:
1. basis for the debt, including date;
  2. balance of the indebtedness; and
  3. date and manner of perfection, including book and page number, certificate of title, or UCC-1 recording.

- B. **Exhibits Permitted.** If exhibit(s) is/are 2 pages or less in length, the exhibit(s) may be filed in place of an Exhibit Summary. Exhibits may also be filed as provided in L.R. 4001-1 (regarding Motions for Relief), L.R. 7056 (concerning motions for summary judgment), L.R. 7016 (regarding trials in adversary proceedings), L.R. 3001(E) (concerning proofs of claim secured by the Debtor's principal residence), as otherwise stated in these Rules, or as permitted.
- C. **Exchange and Filing of Exhibits.** On request, a copy of the exhibits in electronic or paper form shall be provided to the requesting party without charge no later than 72 hours after the request. If a matter involving the exhibits remains at issue for hearing by the Court, the parties shall:
1. submit a copy of their respective exhibits (not just a summary) to the Court and opposing counsel no later than 72 hours before the hearing; and
  2. bring copies of their respective exhibits (not just a summary) to the hearing in sufficient numbers to provide a complete set for the judge, law clerk, and witness.
- All exhibits shall be indexed, and copies for Chambers shall be submitted in binders.

**L.R. 9050 - Proposed Orders.**

- A. **Time for Submission.** Except for proposed orders from the Trustee and orders on Negative Notice, a proposed order shall be submitted at the time of filing any motion, application, pleading, or other request for relief. Orders on matters that may be heard on Negative Notice shall be submitted to the Court after expiration of the last date for response or after hearing, if any. The Certification of No Response shall be part of the proposed order. Except in a Chapter 13 case (unless otherwise ordered by the Court), any order submitted to the Court after hearing is an affirmative representation to the Court by the party tendering the order that the order has been circulated to all counsel who appeared at the hearing and that there are no objections to the content of the order. If agreement cannot be reached regarding a proposed order, the party tendering the order shall send a letter to the Court with a copy either faxed or e-mailed to any opposing counsel advising the Court that agreement has not been reached and providing opposing counsel 72 hours from the time the letter is faxed or e-mailed to submit a competing order.
- B. **Content.** The title of the order shall describe the motion, application, pleading, or other request to which it relates by title and shall indicate whether the order grants or denies the requested relief. The caption of the order shall include the date, time, and location of the hearing on the related motion, application, pleading, or other request. The text of the order shall be sufficiently descriptive to clearly state the relief granted, including a description of any property subject to the order. The order shall not contain any "retention of jurisdiction" language. The end of each order shall:
1. contain the name and address of the person who prepared the order;
  2. list the names and addresses of those to be served with the order; however, the name and address of the person who prepared the order need not be included a second time; and
  3. contain a signature line and date line for the judge. The signature line for the judge shall not be on a page by itself or otherwise apart from the text of the order.
- C. **Service in Non-Chapter 11 Cases.** Except in Chapter 11 cases or when otherwise directed by the Court, the Clerk of Court's Office will serve all orders unless otherwise directed.
- D. **Service in Chapter 11 Cases.** In all Chapter 11 cases, the Court will ordinarily direct the prevailing party to serve the order and file a certificate of service. All orders in Chapter 11 cases shall contain the following statement immediately before the judge's signature line:



“No later than 7 days after the date of this order, \_\_\_\_\_ (name of party) is directed to serve a copy of the order on all parties listed below and is directed to file a certificate of service no later than 24 hours after service.”

- E. **Valuation of Property.** To properly gather required statistical information concerning the valuation of property as compared to the value of a claim, any proposed order submitted concerning (1) a “Trustee’s Motion to Determine Value of Property,” or (2) a “Motion Setting Property Value” shall include a statement whether the property valuation is below the value of the claim. This statement shall be added as the last paragraph of the proposed order.

**L.R. 9060 - Notices and Hearings.**

- A. **Scheduling Hearings.** Unless a motion, application, or pleading may be heard on Negative Notice or may be considered without hearing, the movant shall contact the Courtroom Deputy for the judge before whom the matter is pending or shall consult the Court’s web page to obtain a hearing date and shall send notice of hearing as stated herein. Unless otherwise specified by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, these Rules (e.g., L.R. 9061), or a Court order or notice, a hearing shall be set on no less than 21 days notice.
- B. **Format of Notice of Hearing.**
1. **Content of Notice of Hearing.** The notice of hearing shall:
    - a. identify the motion or pleading to which it relates;
    - b. state the hearing date, time, and place in the caption;
    - c. contain or be accompanied by a certificate of service conforming to L.R. 9004(D); and
    - d. state in bold print, substantially the following:

**WARNING: Any response or objection shall be filed with the Court by \_\_\_\_\_ (month, date & year) (See L.R. 9013-1(B) and 9013-2(B), or other Rules as applicable). A copy shall be promptly served on the undersigned. Failure to file a timely response may result in the Court granting the relief requested prior to the hearing date.**

2. **Combined Motion and Notice of Hearing.** When both a notice of hearing and motion will be served, they may be combined into one document by including the text of the notice at the beginning of the motion. If a combined notice and motion format is used, the title of the document shall indicate that the pleading is both a notice and a motion. Objections to claims shall follow the format of Local Forms 10, 11, and 12.
- C. **Service of Notice of Hearing.** The movant shall serve the notice of hearing on the same parties served with the motion pursuant to L.R. 9013-1(A). When a motion is heard on an expedited or emergency basis (L.R. 9013-2), the motion and notice of hearing shall be served as expeditiously as possible (e.g. by personal service or electronic means) on opposing counsel or on the opposing party if not represented by counsel, and any other necessary parties.

**D. Maintenance of Clerk's Mailing Matrix – Returned Notices.**

Any entity providing notice under the Federal Rules of Bankruptcy Procedure or under these Rules shall make a reasonable effort to obtain correct addresses for any entity for whom a notice was returned with a wrong or undeliverable address. Notice of any corrected address and of an address known to be wrong or undeliverable shall be filed with the Court using Local Form 25 or the appropriate Bankruptcy Noticing Center form. The Clerk of Court shall update the case matrix with current addresses upon receipt of this information. Neither Local Form 25 nor the Bankruptcy Noticing Center form shall be used to update creditor information that was accurate at the time the petition was filed or that has previously been updated in the case. The debtor shall use the procedures set forth in L.R. 1009 to update any such creditor information.

**E. Continuance of Hearings.** If all parties consent to the continuance of a hearing, the request to continue may be made by one of the parties by contacting the Courtroom Deputy for the assigned judge. All other continuances in advance of any hearing shall be made by written motion and served on the opposing party or counsel.

**L.R. 9061 - Negative Notice Procedures.**

**A. Negative Notice.** Certain motions or pleadings may be considered by the Court without setting a hearing date if appropriate notice and opportunity to object to the requested relief are provided to necessary parties (“Negative Notice”). Negative Notice may be used for the following types of motions or pleadings:

1. motions to compel abandonment of property;
2. motions to avoid liens on exempt property;
3. motions to approve the Trustee's final report;
4. motions to dismiss a Chapter 7, 12 or 13 case;
5. motions to convert a case, but not from a Chapter 12 or 13 case;
6. fee applications, except in Chapter 11 cases;
7. objections to claims in Chapter 13 cases;
8. motions for continuation of utility service/adequate assurance of payment under 11 U.S.C. §366; and
9. in Chapter 13 cases, in addition to applicable items included above, the following motions:
  - a. motions to retain a tax refund;
  - b. motions to incur debt; and
  - c. motions to sell or refinance property.
10. Other matters may be set on Negative Notice as authorized by the Court.

**B. Response to Matters set on Negative Notice.** Unless another time period is specified by the Federal Rules of Bankruptcy Procedure, the Bankruptcy Code, these Rules, or a Court notice or order, any party served with a motion or pleading to be heard on Negative Notice shall have 21 days after service to file a response to the motion or pleading. The response time for motions for continuation of utility service/adequate assurance of payment under 11 U.S.C. §366 shall be 30 days. The respondent shall serve the response at the time the response is filed on the movant or applicant and on all entities described in L.R. 9013-1(A).

- C. **Format for Negative Notice.** Any motion, application, or pleading set on Negative Notice shall include a warning in substantial compliance with the following, using bold print and capitalized text, and appearing immediately below the title of the pleading:

**PLEASE TAKE NOTICE: ANY RESPONSIVE PLEADING IN OPPOSITION TO THIS MOTION/PLEADING MUST BE FILED IN WRITING NO LATER THAN 21 DAYS FROM THE DATE OF SERVICE OF THIS MOTION/PLEADING AS SHOWN ON THE CERTIFICATE OF SERVICE. (See L.R. 9013-1(B) and 9061(B)) THE RESPONSE MUST BE SERVED AT THE TIME OF FILING ON THE UNDERSIGNED AND ON ALL ENTITIES DESCRIBED IN L.R. 9013-1(A). THE COURT MAY GRANT THE MOTION/PLEADING WITHOUT FURTHER NOTICE TO ANY PARTY ON EXPIRATION OF THE RESPONSE PERIOD IF NO RESPONSE IS FILED.**

**IF A RESPONSE OR OBJECTION IS FILED, THE MOVANT, APPLICANT OR CLAIM OBJECTOR SHALL SET THE MATTER FOR HEARING AND PROVIDE NOTICE THEREOF TO THE RESPONDENT AND ALL ENTITIES DESCRIBED IN L.R. 9013-1(A).**

- D. **Notice of Hearing when a Response is Filed.** If a response is filed, the movant, applicant, claimant, or claim objector shall schedule the matter for hearing by contacting the Courtroom Deputy for the assigned judge or by consulting the Court's web site. Such party shall file and serve a notice of hearing on the respondent and all entities described in L.R. 9013-1(A). The notice of hearing shall provide the amount of notice specified below. Nothing precludes any party or the Court from setting a matter for hearing if a response is filed.

1. **14 days notice of hearing required for:**

- a. motions to compel abandonment of property;
- b. motions to avoid liens on exempt property;
- c. motions for continuation of utility service/adequate assurance of payment under 11 U.S.C. §366; and
- d. motions to dismiss (except as noted below).

2. **21 days notice of hearing required for:**

- a. motions to convert case, but not from a Chapter 12 or 13 case;
- b. motions to dismiss a Chapter 7 or 12 case;
- c. fee applications, except in Chapter 11 cases; and
- d. in Chapter 13 cases:
  - i. motions to retain a tax refund;
  - ii. motions to incur debt; and
  - iii. motions to sell or refinance property.

3. **30 days notice of hearing required for:**

- a. objections to claims in Chapter 13 cases; and
- b. motions to approve the Trustee's final report.

- E. **Certification of No Response / Certification of Resolution.** If no response is filed, or if any response has been resolved prior to hearing, the movant shall file with the Court a "Certification of No Response / Certification of Resolution" along with a proposed order. The Certification of No Response or Resolution shall be part of the proposed order and shall be filed no later than

7 days after the response deadline. If a response has been filed and the matter is thereafter resolved, the Certification of No Response or Resolution may be filed at any time prior to hearing. The Certification of No Response or Resolution shall state substantially the following:

**“The undersigned certifies that all entities entitled to notice of \_\_\_\_\_ [Name of Movant]’s \_\_\_\_\_ [Title of Motion or Pleading] in accordance with the Local Bankruptcy Rules have been served with the foregoing motion/pleading/objection and the time for response has passed. No responses in opposition have been filed or any responses in opposition have been resolved. Movant requests the Court enter the proposed order.”**

**L.R. 9062 - Matters Without Hearing.** Unless otherwise directed, the Court will ordinarily consider the following matters without hearing. Nothing, however, precludes any party from requesting that any of these matters be set for hearing. Copies of any motion or application that will not be set for hearing under this Rule shall be served on all entities entitled to notice as specified in the Federal Rules of Bankruptcy Procedure or in these Rules. Any response shall be filed and served immediately.

1. motions to extend time for filing schedules and statements;
2. motions to extend time for filing objections to exemptions and discovery responses;
3. motions to extend time for filing objections to discharge or dischargeability;
4. applications to appear pro hac vice;
5. applications to employ professionals (attorneys, real estate brokers, appraisers, auctioneers, etc.) where compensation is the standard rate charged for such services;
6. Trustee motions to approve sales of property less than the amount stated in Fed. R. Bankr. P. 6004(d);
7. Trustee motions to reopen Chapter 7 cases to administer additional assets;
8. motions to reinstate cases following dismissal for failure to file required documents, pay filing fees, or attend § 341 Meeting;
9. motions to reinstate a Chapter 13 case following:
  - a. dismissal for failure to make plan payments when reinstatement is with the consent of the Trustee; or
  - b. dismissal on a creditor’s motion when reinstatement is with the consent of the creditor.
10. requests to set claims bar date;
11. motions to extend time to file a motion to dismiss under Bankruptcy Code § 707;
12. motions to withdraw as counsel;
13. debtor motions to convert a case to a case under Chapter 7 when a discharge has not been entered;
14. motions to delay entry of discharge;
15. motions filed with consent;
16. United States Trustee motions or applications for approval of the appointment or selection of a Trustee, examiner, or ombudsman;
17. United States Trustee reports of undisputed Trustee election;
18. motions for authority of a Chapter 13 debtor to negotiate with the debtor’s mortgage lender; and
19. motions to amend Bankruptcy Code § 521 documents.

**L.R. 9070 - Telephone and Video Conferences and/or Hearings.** An attorney or a party in the case may request to participate in any hearing by telephone or video conference by contacting the Courtroom Deputy at least 7 days (or as soon as possible if there are less than 7 days between the date the underlying pleading was filed and the hearing thereon) before the date of the hearing. A party may only participate by telephone or video conference with Court authorization. Prior to contacting the Court for permission, the party or counsel seeking to appear by telephone or video conference shall obtain the consent of all other parties to the electronic or telephonic appearance. Those participating by telephone must put their telephones on “mute” except when they need to be heard and shall not put their telephones on “hold.” Unless the Court otherwise directs, this procedure is available only to attorneys and parties who are not residents of the Eastern Division and to attorneys whose principal office is not within the Eastern Division. Such hearings may be deferred by the Court to the end of the hearing calendar. All parties shall remain available for the telephonic or video participation beginning at the scheduled hearing time until they are excused by the Court. The Court need not postpone the hearing because of a party’s unavailability or because of problems with telephonic or video transmission.

**L.R. 9075 - Use of Photographic and Recording Equipment.** All means of photographing, recording, broadcasting and televising are prohibited in any courtroom, and in areas adjacent to any courtroom, except before, during, and after a naturalization ceremony or where authorized by a judge presiding over any other ceremonial proceeding. Nothing in this rule is intended to prohibit the use of electronic audio and visual devices for the presentation of evidence, for making the official record of a proceeding, for ensuring Court security, or when authorized by the judge presiding as necessary to the administration of justice.

### END ###